

TOWNSHIP OF LONG HILL
PLANNING BOARD

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IN THE MATTER OF:

TRANSCRIPT

Application No. 19-13P
PRISM MILLINGTON, LLC
50 Division Avenue
Blocks 12301/10100 Lots 1/7.01
Major Preliminary and Final
Site Plan

OF

REMOTE PROCEEDINGS

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Tuesday, October 27, 2020
Zoom Remote Hearing
Commencing at 7:43 p.m.

BOARD MEMBERS PRESENT:

DAVID HANDS, Chairman
THOMAS JONES, Vice Chairman
BRENDAN RAE, Mayor
JOHN FALVEY
VICTOR VERLEZZA
TOM MALINOUSKY
J. ALAN PFEIL
DENNIS SANDOW

A P P E A R A N C E S

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1 A L S O P R E S E N T :

2 DEBRA COONCE, Planning & Zoning Board
 Coordinator

3
4 ELIZABETH LEHENY, Township Planner

5 MICHAEL LANZAFAMA, Board Engineer

6 ROBERT FOURNIADIS (Previously sworn)

7 PAUL DeVITTO (Previously sworn)

8 MATTHEW SECKLER (Previously sworn)

9 ANGELA ALBERTO (Previously sworn)

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1	TABLE OF CONTENTS		
2	BOARD PROFESSIONALS SWORN		PAGE
3			
4	ELIZABETH LEHENY		6
5	MICHAEL LANZAFAMA		7
6			
7			
8	AUDIENCE MEMBERS SWORN		
9	JON CAPUTO		104
10	CHARLES ARENTOWICZ		133
11			
12			
13			
14			
15	CAPUTO NUMBER	PUBLIC EXHIBITS DESCRIPTION	PAGE
16	JC-A1	Drawings - 4	108
17	JC-A2	Drawings, Photo - 5	115
18	JC-A3	Slides	117
19	CA-1	Photographs	133
20			
21			
22			
23			
24			
25			

1 CHAIRMAN HANDS: Back to the agenda.
2 Continuation of the major preliminary and
3 final site plan for Prism Millington, LLC.
4 Site known as Tifa.

5 Is Frank there? Frank, are you
6 there? Do you want to kick it -- well,
7 actually --

8 BOARD MEMBER RICHARDSON: I'm
9 signing off, guys.

10 CHAIRMAN HANDS: Thank you, Don.

11 COORDINATOR COONCE: Thank you, Don.

12 (Record notes Commissioner
13 Richardson is not present.)

14 CHAIRMAN HANDS: Before we jump into
15 the continuation of the application, what was
16 the appropriate step here, Deb? Do we want to
17 discuss anything beforehand or are we going --

18 COORDINATOR COONCE: On the
19 application?

20 CHAIRMAN HANDS: Yeah.

21 COORDINATOR COONCE: I don't have
22 anything at this time, Mr. Chairman. I don't
23 know if you want to go straight to Jolanta.

24 MS. MAZIARZ: I think we should go
25 to the applicant to see what else the

1 applicant has before we begin.

2 CHAIRMAN HANDS: Right. Okay.

3 Thank you. Because last week -- last time I
4 think we started some public testimony, I know
5 that Bill Kaufman was coming up.

6 MS. MAZIARZ: That's correct.

7 CHAIRMAN HANDS: And I think there
8 was some good thought there.

9 MS. MAZIARZ: Yes. And if the
10 applicant has anything, any rebuttal
11 testimony, anything that the applicant would
12 like to share, they should do so now. If not,
13 then we can go to the Board's expert.

14 Mr. Regan?

15 MR. REGAN: Nothing at this time.

16 MS. MAZIARZ: Okay. So at this
17 point, I think, Chairman, we would like to
18 have our Board planner, Liz Leheny, testify.
19 Ms. Leheny has been asked by the Board to
20 testify in order to elaborate on some issues
21 that were brought up at the last Planning
22 Board meeting.

23 I understand that Mr. Kaufman had
24 put some testimony on the record. Mr. Kaufman
25 was qualified as an architect, but he took the

1 position -- he took certain positions that
2 were either legal positions or planning
3 positions. Mr. Kaufman is neither a planner
4 nor an attorney.

5 So the Planning Board has asked
6 Ms. Leheny to put her planning testimony on
7 the record at this time.

8 Ms. Leheny, are you ready at this
9 point --

10 MS. LEHENY: I am.

11 MS. MAZIARZ: -- to testify? You
12 are.

13 I believe that you were sworn at the
14 beginning of this process, but I don't really
15 recall, so I will swear you again --

16 MS. LEHENY: Sounds good to me.

17 MS. MAZIARZ: -- just to make sure.
18 So please raise your right hand.

19 E L I Z A B E T H L E H E N Y,
20 having been duly sworn, was examined and
21 testified as follows:

22 MS. LEHENY: I do.

23 MS. MAZIARZ: Thank you.

24 And in the event that we need any
25 testimony from Mr. Lanzafama.

1 Mr. Lanzafama, please raise your
2 right hand.

3 M I C H A E L L A N Z A F A M A,
4 having been duly sworn, was examined and
5 testified as follows:

6 MR. LANZAFAMA: I do.

7 MS. MAZIARZ: Thank you.

8 Ms. Leheny.

9 MS. LEHENY: Okay. Thank you very
10 much, Ms. Maziarz.

11 Deb, could you put up the share
12 screen of the site plan? I think it would be
13 helpful to refer to during my testimony.

14 While Deb works on that, I'll, you
15 know -- Jolanta gave an introduction, but my
16 name is Liz Leheny. So the public is aware,
17 I'm the consultant planner to the Planning
18 Board. My firm, Phillips Preiss, was
19 appointed Board planners in January 2020. And
20 the Board chairman, Mr. Hands, had requested
21 that I address Mr. Kaufman's testimony
22 regarding the Prism proposal given at the last
23 Planning Board hearing on October 13th, 2020.

24 I listened to Mr. Kaufman's
25 testimony and I have reviewed the video of the

1 meeting subsequently. In all candor, I found
2 his testimony to be very compelling.

3 That said, based on my initial
4 review of the zoning governing the site and on
5 my rereview of the ordinance over the past two
6 weeks, I interpret the ordinance differently
7 from him in several aspects. However, in
8 other aspects, I think his points are well
9 taken and the Board should consider them
10 further.

11 I will share with the Board the
12 reasonings and rationale for my
13 interpretations and where I agree and differ
14 with Mr. Kaufman's conclusions.

15 You know, to start, I'm just going
16 to provide some background to refresh the
17 Board's memory. Some of it may also -- I'm
18 not sure if there are Board members that are
19 new to the Board since 2018, but as we know,
20 the site is located in the MUO, mixed-use
21 overlay, zone.

22 As most of you are aware, the
23 Township committee adopted the zoning pursuant
24 to its 2017 settlement agreement which was
25 entered into between the Township and Fair

1 Share Housing Center.

2 The site was identified in the
3 settlement agreement for the development of an
4 inclusionary multifamily residential project
5 that would result in the creation of 21 units
6 of affordable housing.

7 The settlement agreement required
8 that the Township prepare zoning which would
9 implement the terms of this agreement.

10 Compliance with the settlement agreement is
11 imperative for a township in warding off a
12 builder's remedy lawsuit. For anyone who
13 doesn't know, a builder's remedy lawsuit
14 allows a developer to bring litigation against
15 a municipality that it alleges is not
16 complying with its Mount Laurel obligation.

17 The Court-imposed solution or remedy
18 can result in a town essentially losing its
19 powers over its zoning ordinances. So it's
20 always in the municipality's best interest to
21 avoid a builder's remedy.

22 So in early 2018, the preceding
23 Board planner, my predecessor, prepared the
24 MUO zoning and the Township subsequently
25 adopted it in May 2018.

1 So the Planning Board discussed the
2 bulk regulations and other parameters of the
3 zoning in its meetings in February and March
4 2018. The comments that the Board made I am
5 sure were conveyed to the Township committee.
6 It is, of course, the Township committee and
7 not the Planning Board who adopt zoning. It's
8 merely the Board's job to evaluate compliance
9 with that ordinance on specific site plan
10 applications.

11 So the adoption of the ordinance was
12 necessary in order for the Court to grant Long
13 Hill a judgment of repose against builder's
14 remedy lawsuits, which it did and -- the Court
15 did in June 2018. However, the adoption of
16 the ordinance and Court grant of immunity from
17 builder's remedy lawsuits is only one portion
18 of a municipal's Mount Laurel compliance.

19 Case law has set a precedent that
20 municipalities that fail to implement
21 ordinances which provide a realistic
22 opportunity for the construction of low- and
23 moderate-income housing can be found to be in
24 violation of their Mount Laurel mandate. Mere
25 good intentions or adoptions of plans or

1 ordinances that fail to create this realistic
2 likelihood do not satisfy the municipality's
3 constitutional obligation. And the key really
4 is realistic opportunities.

5 And, you know, the terms of all
6 ordinances that affect a site must be
7 considered to determine their impact and the
8 likelihood of the creation of affordable
9 housing.

10 So, you know, the Township cannot
11 adopt zoning that would intentionally delay,
12 frustrate, result in unduly costs, or
13 otherwise impede development on sites in a
14 settlement agreement. They have to adopt
15 zoning that would create a realistic
16 opportunity.

17 So it is in this context that I
18 reviewed the proposed project's compliance
19 with the MUO zoning as well as the rest of the
20 Township zoning ordinance.

21 So -- sorry. To start, I'm going to
22 give you this -- I'd like to start off with
23 this concession. This ordinance is not
24 artfully written. I can say this because I
25 didn't write it and because it was adopted

1 prior to my firm's engagement as the Township
2 planners. This type of development, as you
3 all are extremely well aware, is unusual for
4 Long Hill, where single-family homes are the
5 predominant, you know, residential prototype.
6 This is completely different. You've got 14
7 multifamily buildings, a clubhouse, a retail
8 building, all on one lot.

9 You know, the lot has multiple
10 street frontages: on Division, on Stone
11 House. It also abuts a paper street and,
12 beyond that, the railroad. However, each of
13 the buildings has frontage on and is accessed
14 by internal roadways.

15 I will admit that the ordinance I
16 think could have gone further in clarifying
17 the uniqueness of this type of development
18 within the context of Long Hill, but we are
19 left with what is currently on the books in
20 evaluating this application.

21 So with regard to the height of the
22 proposed buildings, and to start, how building
23 height is measured in Long Hill. The
24 ordinance defines height of building as "the
25 vertical distance from the lowest ground

1 elevation around the foundation to the level
2 of the highest elevation point of the roof
3 surface."

4 Now, the Board engineer reviewed
5 this section of the ordinance and later in the
6 hearing will provide more clarification and
7 elaboration on how he and his firm interpreted
8 the ordinance with regard to the buildings,
9 you know, specifically those closest to Stone
10 House Road.

11 In short, you know, it is the
12 engineer's conclusion that the development
13 complies, but I will allow Mr. Lanzafama to
14 address this.

15 But I would like to address the
16 standards in the ordinance for maximum
17 building height, which are at Section, I guess
18 it's LU 122.15.3C, which reads as follows:
19 "Maximum building height. 1. 2 and 1/2
20 stories or 35 feet for buildings facing
21 Division Avenue, (east boundary line), or the
22 New Jersey Transit railroad tracks (north
23 boundary line). 2. Maximum three stories or
24 45 feet for buildings facing Stone House Road
25 (south boundary line) and in the interior of

1 the property."

2 So, Mr. Kaufman in his testimony
3 argued that Buildings 14, which I guess is
4 here -- can you see my cursor? I don't know.
5 Anyway, if you can see on the site plan,
6 Buildings 14 and Building 1 face the New
7 Jersey Transit railroad tracks and Buildings
8 12, 10 and 8 -- here, here, and here -- all
9 face Division. I don't know, Deb, I guess you
10 probably have control so maybe you could --

11 COORDINATOR COONCE: I do, yes,
12 which -- let me see if I can get it a little
13 bigger.

14 MS. LEHENY: Okay. So in a sense,
15 Mr. Kaufman was arguing that because he
16 believes these buildings to face both the
17 northern property line and the eastern
18 property line, they should be 2 and 1/2
19 stories or 35 feet, whereas the buildings are
20 currently proposed to be three stories or 45
21 feet.

22 The primary issue with the ordinance
23 language is the use of the word "facing" and
24 what is meant by it. The ordinance doesn't
25 provide any guidance in the form of a

1 definition. Does facing mean the -- you know,
2 the direction that the front facade of the
3 building is oriented or is it any facade?

4 For example, Building Number 1,
5 which is up on the northwest section of the
6 site --

7 COORDINATOR COONCE: Right here.

8 MS. LEHENY: Exactly.

9 -- has a facade that will be
10 facing -- the rear facade which faces the
11 railroad, but its front facade is facing an
12 internal roadway. The side facades of
13 Buildings 8, 10 and 12 face Division Avenue,
14 but their front facades face internal
15 roadways. So which requirement applies?

16 If I understood his testimony
17 correctly, Mr. Kaufman interpreted the
18 ordinance to read that these buildings could
19 only be 2 and 1/2 stories, 35 feet, because
20 they have facades, even if they're not the
21 front facades, that face the northern property
22 line or Division.

23 I would argue that they are
24 permitted to be three stories or 45 feet.
25 Absent a zoning definition for facing, I

1 relied on the dictionary. Merriam Webster
2 Dictionary provides a definition of facing
3 which reads "having the front oriented towards
4 a specified direction."

5 So which facade is the building
6 front? In the architectural drawings
7 submitted, the developer has assigned the
8 front facade as that facade on which the
9 building garages and entrance doors for the
10 majority of the building units are located.
11 It is also one of the rectangular building's
12 long sides, it is opposite the rear facade,
13 which has no entrances, and vehicular access
14 to each building is provided along this
15 facade.

16 To me, it makes logical sense that
17 this would be the front facade and that the
18 side facades would each have two entry doors
19 and mechanical equipment and trash enclosures.

20 So I, you know, interpreted the
21 ordinance to permit rear facades and side
22 facades closest to the railroad and Division
23 Avenue to be three stories and 45 feet
24 because these buildings were not facing these
25 areas.

1 All that said, the front facade of
2 Building Number 14 -- which I don't know if
3 you can see, Deb. It's close -- close to the
4 paper Commerce Street. It's to the northwest
5 of the pool.

6 This front facade is facing in the
7 direction of the railroad tracks. However,
8 internal streets and parking areas lie between
9 the building and the track boundaries.

10 So I interpreted the ordinance to
11 permit three stories and 45 feet in this
12 instance because it was facing these internal
13 roadways and parking areas.

14 You know, to that point, you know,
15 one could make an argument that all of the
16 buildings are either facing the railroad or
17 Division, and so none of them could be higher
18 than 2 and 1/2 stories or 35 feet. But it
19 seems logical to me that if there are roadways
20 and buildings between an individual building
21 and a lot line, then the building is no longer
22 facing the railroad or Division.

23 In contrast, the retail building is
24 clearly facing Division as there's nothing but
25 landscaping between its front facade and

1 Division.

2 Now, Mr. Kaufman correctly points
3 out that the building height facing
4 requirements are not confined to a certain
5 setback distance from the railroad or Division
6 Avenue. For example, like, you know, if a --
7 if a building is beyond a hundred feet from
8 Division, it could go up three stories.
9 There's nothing like that in the ordinance.

10 So this creates further ambiguity.
11 You know, for example, Buildings 14, 12, 10
12 and 8 are set back significant distances from
13 the northern and eastern lot lines as well as
14 the required setbacks from these boundary
15 lines. Internal roadways lie between the lot
16 lines and these buildings. Landscape
17 buffering is provided along these lot lines
18 with a substantial buffer along the northern
19 lot line. In the case of Buildings 8, 10 and
20 12, their front facades are oriented so that
21 the shorter end, you know, what I would
22 consider the side facade, is visible to
23 Division.

24 So -- and I just want to skip ahead,
25 but I think at this point, the Board should

1 consider what was intended in the drafting of
2 the height provisions in this ordinance.
3 Based on a review -- or my review of meeting
4 videos and minutes from the Planning Board
5 meetings in 2018, there was real concern among
6 the Board members of the appearance of the
7 development from Division and the railroad.
8 In particular, the scale and massing of the
9 buildings.

10 The Board did not have the benefit
11 of Prism's site plan and was simply working
12 off a bulk -- you know, bulk diagrams provided
13 by the Board's then engineer to determine
14 whether, in fact, a development providing a 50
15 percent set-aside of 21 affordable units could
16 be built at this location as dictated in the
17 settlement agreement.

18 The engineer's drawing show
19 rectangular block buildings with the long
20 facade facing Division. The buildings were
21 also shown on these sort of, you know,
22 whatever you call them, massing diagrams or
23 I'm not sure exactly the right term. But the
24 buildings were also shown closer to the front
25 yard lot lines along Division.

1 The Board's comments, which I am
2 sure were conveyed to the Township committee,
3 wished to minimize the visual impacts on the
4 surrounding community related to the
5 building's mass and scale.

6 And I think it's here where I think
7 the Board should consider where -- whether
8 they think that the currently proposed
9 architecture accomplishes that goal. Even if,
10 as I believe, the development is conforming to
11 the height requirements in the zoning
12 ordinance -- and I think this is where
13 Mr. Kaufman's rendering shown in his testimony
14 were compelling. You know, they didn't
15 include the landscaping and they weren't, you
16 know, sort of pretty, but, you know, this is
17 an inclusionary site included in the Fair
18 Share plan, but that does not mean the project
19 does not have to be aesthetically pleasing.

20 If the Board wishes, it is not
21 unreasonable to ask the applicant to work with
22 the Board to minimize the appearance of the
23 mass and the bulk of the buildings,
24 particularly on the facades visible from
25 roadways or the railroad tracks outside the

1 development.

2 I'm not talking about lowering the
3 heights, but there could be modifications to
4 the facades, breaking up the rooflines, or
5 other sort of changes that could work and
6 effectuate the same feeling of minimizing the
7 mass and the scale.

8 I do want to bring up a couple of
9 Mr. Kaufman's other points. He cited Section
10 135, "Uniformity and Architectural Design or
11 Appearance." You know, these provisions apply
12 to houses and housing developments; you know,
13 according to the ordinance, it says this
14 applies to houses and housing developments
15 consisting of two or more houses.

16 As Mr. Sandow has pointed out at the
17 last hearing, other multifamily developments
18 in town have fairly uniform architecture.

19 I've seen these, you know, what they
20 call no look alike provisions in other
21 ordinances, and in my experience, they really
22 are meant for residential subdivision
23 applications. You know, single-family
24 residential and not multi-building,
25 multifamily housing projects.

1 That said, as Mr. Kaufman pointed
2 out, this does -- well, he didn't say this,
3 but the ordinance does not define house and
4 uses the term "house" interchangeably with the
5 term "dwelling." Although I do not think that
6 this ordinance provision applies here, I agree
7 with what I think is Mr. Kaufman's overall
8 point about the development's lack of
9 substantial differentiation in terms of
10 architecture. And if the Board agrees with
11 me, then it could potentially ask the
12 developer to work with them on providing some
13 more differentiation.

14 Mr. Kaufman also questioned
15 compliance of the proposed project with
16 Section 152, "Building Design." These are
17 design guidelines which apply to all buildings
18 in town, single-family homes, commercial
19 buildings, et cetera. I have to say ideally
20 in developments such as this, which is, you
21 know, sort of a one-off, you know, development
22 intended to help the Township meet its
23 affordable housing requirement, usually there
24 are ideally, I would say, separate design
25 guidelines that would be probably within the

1 MUO zoning that would be more tailored to this
2 development, especially because it is so
3 unique within the context of Long Hill.

4 In my review of this application, I
5 considered the site to be unique and that the
6 guidelines were more for general projects than
7 for something that is in a Township's
8 settlement agreement.

9 But in reviewing the ordinance these
10 past weeks, I have to concede that Mr. Kaufman
11 is correct. There is nothing in the ordinance
12 to suggest these design guidelines would not
13 apply to this development.

14 In that regard, I was remiss for not
15 bringing these guidelines to the Board's
16 attention in my review letter and I appreciate
17 Mr. Kaufman for bringing this ordinance
18 section to the Board's attention.

19 I would recommend that the Board
20 request that the applicant address in
21 testimony how the proposed project conforms
22 with these design guidelines. Some of the
23 language is "should" and "encourage" and seems
24 to be written as more advisory or suggested
25 rather than mandatory. However, some of the

1 guidelines include the language "shall," which
2 seems to imply that this is a mandatory
3 requirement. In my opinion, deviations from
4 these design guidelines would not be
5 variances, but, you know, maybe at most design
6 waivers.

7 So, you know, to sum up, from my
8 perspective, this is a fully conforming
9 application with the zoning ordinance. That
10 said, I do think if the Board wishes, it is
11 reasonable to request that the developer work
12 with the Board to make modifications to the
13 architecture to soften the massive bulk,
14 provide more variation, et cetera, especially
15 on the facades most visible from areas outside
16 of the development.

17 However, the Board should keep in
18 mind that New Jersey case law has found that
19 in all-inclusionary developments,
20 municipalities have to remove municipally
21 created barriers to affordable development,
22 including zoning and subdivision restrictions
23 and factious.

24 You know, all of the ordinance and
25 provisions of the ordinance have to be

1 considered to determine their impact on the
2 likelihood of affordable housing development.
3 Unnecessary costs should be avoided so that
4 affordable housing can be built, but, also,
5 and the Courts have found, so that market
6 units within a development containing
7 affordable units can be profitably
8 marketed.

9 In other words, because this is an
10 inclusionary development, in the municipal
11 housing plan, the Board cannot compel the
12 applicant to undertake architecture design
13 that would be generally, you know -- would
14 generate undue cost to the developer.

15 So I would ask that the Board keep
16 that in mind as it moves forward in the review
17 of this application. That said, the Board has
18 every right to ask the developer to work with
19 them to create a development that the Board
20 finds aesthetically pleasing.

21 And so at this point, I'm going to
22 stop talking. I'm sure the Board has plenty
23 of questions.

24 CHAIRMAN HANDS: Yes. Firstly,
25 thank you for that comprehensive recap and

1 statement of facts. I appreciate you
2 recognizing there's some work that could be
3 done a little bit earlier. I appreciate
4 Mr. Kaufman for pointing some of those
5 thoughts out and reviews. So I thank
6 everybody for that.

7 One thing that does go through my
8 mind listening to public testimony and
9 comments, there's a lot of reflection about
10 the design and the bulk of the buildings and
11 concerns and thoughts about how the buildings
12 reflect on the character of Millington. And
13 we also know we heard some discussion about a
14 prior version of the design that was presented
15 at the Millington firehouse some couple years
16 back.

17 Without making this a big and
18 prolonged process, I just want to know what
19 the opportunity and thoughts are of the Board
20 should we want to consider having some
21 thoughts around the design and -- basically
22 the design of the buildings and what
23 considerations we may want to think about.
24 I'll just leave it open to anybody who wishes
25 to chime in.

1 John, please.

2 BOARD MEMBER FALVEY: My question --
3 I think it's for Jolanta -- is, are you aware
4 of any case law which would define what facing
5 is? Because I know she said you could say
6 it's the side of the building. Is there
7 any -- is it set of law or is it really case
8 by case?

9 MS. MAZIARZ: Can you hear me?

10 BOARD MEMBER FALVEY: Yes.

11 MS. MAZIARZ: Because I think I'm
12 frozen, but that's okay. As long as you can
13 hear me.

14 No, not that I know of. There's
15 really nothing that's that specific. I mean,
16 that is a really fact-specific inquiry and
17 that's something that really we leave to the
18 realm of planners.

19 So I don't know, Liz, if you want to
20 speak to what type of a definition, if any,
21 there is in Moskowitz, perhaps, which is a
22 treatise on planning. I know that there's
23 really nothing in Cox that references that.

24 MS. LEHENY: Yes. No, there is,
25 unfortunately, nothing in Moskowitz. It's not

1 really a common planning term.

2 MS. MAZIARZ: Right.

3 MS. LEHENY: You know, you might
4 say, you know, a building has frontage or, you
5 know, has roadway access or something like
6 that. It's not typically -- zoning ordinances
7 are not typically necessarily written this
8 way, using "facing."

9 MS. MAZIARZ: Exactly. So if it
10 isn't and it really isn't a planning term,
11 then you went to the next logical place where
12 you would look for a definition, which would
13 be the dictionary. And that is logical and
14 that's really what we do in law. We look at
15 the terms and what they are defined as in
16 ordinary parlance. Is that correct, Liz?

17 MS. LEHENY: Yes. Yep. And what
18 I -- you know, the Merriam Webster Dictionary
19 said facing is, you know, essentially the
20 front of something, what it's facing, so...

21 MS. MAZIARZ: Right. And then
22 ultimately when a Board is looking at a -- the
23 definition of an ordinance, of ordinance
24 interpretation, the first rule of
25 interpretation is its -- the language on its

1 face.

2 What does it mean on its face? And
3 that is what it means. And then it's also the
4 legislative intent.

5 And I believe that Liz accurately
6 articulated the intent being that the Township
7 Committee intended for this development to
8 occur because it is a development that is in
9 the Township's affordable housing plan. So
10 obviously the Township committee intended that
11 this development was to be developed in a
12 manner consistent with what Liz is talking
13 about.

14 Liz, is it accurate to say that if
15 we were to consider that anything facing,
16 meaning the rear -- rear facing or side
17 facing, would we be able to get many buildings
18 on this site if we were to consider any
19 facade, whether it be rear or side, facing
20 those streets? Would we be able to develop
21 anything on that -- on that lot?

22 MS. LEHENY: Well, I think, yeah,
23 it's a little bit confusing because, you know,
24 what does facing mean? And obviously the
25 buildings either all face either north or

1 east. But I think, you know, to take it one
2 step further and say, no, okay -- and I think
3 Mr. Kaufman, he wasn't suggesting that, but he
4 was suggesting that the building sort of
5 closest to the northern boundary and closest
6 to the eastern boundary, that those should --
7 you know, even if it was the side facade, it
8 was still facing Division. Even if it was
9 the rear facade, it was still facing the
10 railroad.

11 And I would say that the Township
12 Committee probably didn't intend that because
13 if the buildings were lower, you'd have fewer
14 units and that means that they wouldn't be
15 able -- the developer would not be able to do,
16 at a 15 percent set-aside, 21 affordable
17 units, which the Township Committee tends to
18 provide and produce on this site.

19 And so, you know, either the
20 buildings would have to be, I don't know,
21 wider or if those buildings are lower, that
22 means other buildings would have to go higher.
23 And, you know, there -- potentially would
24 result in height variances of either way,
25 which would go before a whole 'nother Board.

1 Again, it's this whole idea of realistic
2 opportunity and not trying to provide, you
3 know, necessary red tape for the developer to
4 go through in order to get a development
5 approved.

6 And really ideally, with all of
7 these inclusionary developments that are in
8 settlement agreements, they are typically and
9 strive to be as of right. And the zoning is
10 typically written to provide that, provide the
11 developer the opportunity to create the
12 affordable units as of right.

13 MS. MAZIARZ: All right. So,
14 Mr. Falvey, in short, it is an interpretive
15 issue and the interpretive issue skews toward
16 allowing this development because it is part
17 of the settlement agreement with Fair Share
18 Housing Center.

19 CHAIRMAN HANDS: Thank you.

20 BOARD MEMBER FALVEY: Okay.

21 CHAIRMAN HANDS: Dennis, I see your
22 hand.

23 BOARD MEMBER SANDOW: Just a
24 historical perspective here. When these --
25 when this development was first proposed, it

1 was observed that the land sloped rather
2 dramatically. And although we did not have
3 site plans or architectural drawings in hand
4 at the time that this ordinance was passed,
5 there had been discussion about the fact that
6 we would attempt to keep the rooflines level
7 by allowing higher buildings, taller
8 buildings, down at the bottom on Stone House
9 Road and shorter buildings near the railroad
10 track in order to take advantage of the slope
11 of the land to keep the roofs fairly
12 consistent.

13 And when this ordinance was written,
14 and now nearly three years ago, there was --
15 that was the only plan that was on the table.

16 Now, Prism has come in with us now
17 with a proposal to bring in fill in order to
18 level the lot. And so the distinction between
19 buildings at the low end and buildings at the
20 high end of the lot is now moot because their
21 proposal is to create a fairly level lot so
22 that the buildings could all be fairly
23 congruent with each other.

24 I bring that up as a historical
25 perspective because the ordinance did not

1 contemplate this site plan, period.

2 CHAIRMAN HANDS: Thank you, Dennis.

3 Anybody else?

4 MAYOR RAE: Just as a point of
5 clarification, right, this site plan is
6 consistent with the ordinance as written, is
7 that right?

8 MS. LEHENY: I believe it is.

9 MAYOR RAE: Right. Okay.

10 CHAIRMAN HANDS: Yes. Alan, please.

11 BOARD MEMBER PFEIL: I have a
12 question for you. When we were reviewing
13 potential planning firms, your firm, you know,
14 submitted information about some of the
15 projects you'd worked on and including I noted
16 some -- you know, some large, you know, either
17 rental unit or condo type of developments
18 around Morris County.

19 Is variation of facade typical in
20 this type of affordable housing development?

21 MS. LEHENY: I think in inclusionary
22 developments, yes, it is. I think -- when it
23 is 100 percent affordable housing, I think
24 people tend to sort of say, okay, we're not
25 going to be too stringent with design. I

1 think with inclusionary development, there is
2 some latitude for the Board to, you know,
3 provide -- to ask the developer to work with
4 them to create a more aesthetically pleasing
5 design.

6 BOARD MEMBER PFEIL: So it's not
7 atypical then, right?

8 MS. LEHENY: It's not atypical, no.

9 BOARD MEMBER PFEIL: Thank you.

10 MAYOR RAE: I mean, David, you know,
11 right now this is a really open-ended
12 discussion, right, and I'm not too sure it's
13 taken us anywhere. I mean, I think the
14 applicant should certainly be part of the
15 discussion, but also, I think we should get a
16 sense from the Board exactly what are they
17 thinking of in terms of working with us,
18 right?

19 Is that -- is that going back to the
20 design from two or three years ago at
21 Millington firehouse? Is it -- is it, you
22 know, as I think Liz said, you know, looking
23 at some variation in the lot line, maybe
24 trying to make the current structures a little
25 bit different from one another, maybe adding

1 some features to take away the boxiness of
2 them.

3 What are we actually thinking about
4 as a Board? And then, you know, obviously the
5 applicant has to -- we have to -- we have to
6 discuss what our thoughts are with the -- with
7 the applicant and get their input because I
8 just think we're in a very -- we're in a gray
9 area here. And I think Liz described it
10 perfectly.

11 CHAIRMAN HANDS: Thank you.

12 Tom, yeah, please go first and then
13 I'll --

14 VICE CHAIRMAN JONES: So personally
15 I want to thank the Board planner for going
16 through that testimony.

17 I personally would like to -- and I
18 appreciate everything that the applicant,
19 Mr. Fourniadis, has done, especially with the
20 changing of the retail building. But we're
21 going to be living with these buildings
22 forever and I want to be able to know that
23 I've looked over there and I'm happy with
24 the -- with the outcome.

25 I mean no disrespect, but I don't

1 like the buildings. I'd like to work with the
2 applicant to -- to come up with a design that
3 helps everyone. Because we've listened to the
4 residents. They're not happy with what is
5 being proposed.

6 I think a little bit they need to
7 take ownership for not liking the first
8 version of what was put out there. So I think
9 residents have some skin in the game there as
10 well.

11 But I think the best thing to do --
12 and I don't know if we even have to now go
13 back and take a look at some of the bulk
14 variances that we put in place to say do we
15 need to revisit that? Because what we're
16 getting is not quite what we were hoping for.

17 So, again, you know, full respect to
18 everybody and their positions, but I would
19 like to work with the applicant to incorporate
20 some kind of changes that works for everybody
21 if we can find that common ground.

22 MAYOR RAE: Well, I mean, I think
23 this is, like -- I mean, if we go back to bulk
24 variances, right, this is really late in the
25 game to be doing any of that kind of stuff,

1 right? And -- in my opinion. And again we're
2 all kind of dancing around this idea of work
3 with the applicant. Well, what does that
4 mean? I mean, I think we have to --

5 VICE CHAIRMAN JONES: I want to
6 change some of the -- the way the buildings
7 look.

8 MAYOR RAE: Well, no, no, no. Yeah.
9 Well, that's a fairly general statement,
10 right? But is it -- is it -- is it, you know,
11 take an eraser and start all over again or is
12 it tweak, right?

13 And I think -- and I'll go back to
14 what I said. If we're going to discuss this
15 with the applicant who's right here, I think
16 we need to -- as a Board, we need to have some
17 idea of what this phrase "work with the
18 applicant" actually means. And right now
19 we're dancing around it and I haven't heard
20 anything too concrete. And so is it wholesale
21 changes? Is it tweaks? Maybe that's a --
22 maybe that's a threshold question to take us
23 to the -- to take us to the next step as part
24 of the analysis.

25 But right now it seems to me that

1 everything's on the table. And, like I said,
2 we're late in the day for that.

3 VICE CHAIRMAN JONES: Yeah, well,
4 Mayor Rae, we've only had one option to look
5 at outside of the one that was produced in
6 Millington which got mothballed. So I'd like
7 to see a couple of options and that way --

8 MAYOR RAE: But nevertheless --

9 (Indiscernible cross talk; reporter
10 requests one speaker.)

11 MAYOR RAE: Nevertheless, right,
12 it's -- the site plan that we're seeing right
13 now is consistent with the ordinance as
14 written. And given what we have here,
15 there's -- I don't think it's just as
16 clear-cut or as of right as you think it might
17 be. That's -- that's -- that's what I'm
18 saying.

19 BOARD MEMBER VERLEZZA: Can I make a
20 comment?

21 CHAIRMAN HANDS: Yeah. Please,
22 Victor.

23 BOARD MEMBER VERLEZZA: I think that
24 we could go on and on and on forever as to who
25 likes what design, who wants it to look like a

1 colonial, who wants it to look like a train
2 station, who wants it to look like it's
3 industrial. There's so many different
4 designs. We can go on and on and on forever.
5 Maybe I personally think it looks good like
6 the way it is now. I don't, but it's a matter
7 of opinion. I'm sure other people do like it
8 and think it looks good.

9 I think we need to work with this
10 builder, try to come up with a design,
11 tweaking it, not coming -- starting back from
12 the drawing board because, after all, what's
13 down -- I've heard a lot of complaints, but
14 what's down there right now is an eyesore and
15 we've been looking at it for 50 years.

16 So at some point, we can keep
17 delaying, delaying, delaying, or we can move
18 forward with this project, which is ultimately
19 going to be an improvement. We could go on
20 and on about parking spaces and trees and
21 rooflines. At some point we've got to move
22 forward. That's just my opinion.

23 CHAIRMAN HANDS: John.

24 BOARD MEMBER FALVEY: Is the real
25 issue the concern -- I think the concern

1 raised was the height, that there are too many
2 tall buildings which kind of go against the --
3 I guess the intent, which is -- I guess he
4 tried to say if it's facing, it can't be
5 higher than the 2 and 1/2 stories. I mean, is
6 that the real issue, the height? There's too
7 many tall buildings? Because I mean, frankly,
8 I'm sure it will look lovely and they're not
9 going to put up a piece of garbage. But is it
10 the height that's the real concern?

11 MS. MAZIARZ: I think that -- I'm
12 sorry, Chairman. I thought I heard that there
13 were two concerns: The first being the height
14 and the second being the architectural
15 interest, if you will.

16 BOARD MEMBER FALVEY: I
17 personally -- it will look nice, but I could
18 see a real concern being the height. You
19 know, real tall buildings crammed into that
20 tiny little area with mostly single-family
21 homes around it. I hear the concern. When
22 you talk about getting specific, I wonder if
23 that's the specificity, but I don't know
24 that that's -- like, if I was the developer, I
25 don't know that I'd agree with that. You

1 know, I'm going to go over and spend thousands
2 and thousands of dollars to get my plans
3 redone even though you have your own experts
4 saying you complied? Which I don't know that
5 she said that. She said in her opinion, but
6 there's a -- there's a plausible argument that
7 it's not complying. That's what I took out of
8 it.

9 CHAIRMAN HANDS: Thank you.

10 Tom.

11 MR. LANZAFAMA: Mr. Chairman, can I
12 put in my two cents?

13 CHAIRMAN HANDS: One second. Tom is
14 on mute. Can I just have Tom speak for a
15 second? Tom, you're on mute.

16 BOARD MEMBER MALINOUSKY: Besides
17 the change in the architecture, are people
18 looking to change every building so it would
19 be different, so it match -- it can hold up to
20 the ordinance, or are we just -- we don't like
21 the buildings the way they look now and we
22 want every one the same but different from
23 what was submitted to us?

24 VICE CHAIRMAN JONES: So me,
25 personally, I drove around on this past

1 Saturday and I came across a development that
2 looks very similar to the design being
3 proposed. And when I saw that every building
4 was identical, the garages on the bottom
5 floor, plus two floors with a hip roof and a
6 gable on the front, and there was, like, six
7 buildings all on a small property. And to me,
8 when I saw that -- and, listen, I also heard
9 about a tree, after five years, a 10-foot
10 tree's only going to be 10 feet after five
11 years. I doubt any tree is going to be only
12 10 feet. I imagine it will grow a little bit
13 higher to help break up some of that -- the
14 line of sight.

15 So I hope it would get up to 15 and
16 20 feet, these trees --

17 BOARD MEMBER MALINOUSKY: Well, to
18 be fair, though, too, Tom, all of the
19 renderings we have, they're not done from a
20 street view. They're done from an elevated
21 position looking down. So you're not getting
22 an accurate view of what it would be like when
23 the landscaping is in place.

24 VICE CHAIRMAN JONES: Yeah, that's
25 fair. So I'm stuck with the mind's eye,

1 right, to try and figure this out?

2 BOARD MEMBER MALINOUSKY: Right.

3 VICE CHAIRMAN JONES: Yeah. So
4 that's what I'm kind of living with. And when
5 I saw something in actual -- in reality, I
6 said, well, that might be close to what is
7 being proposed. And that's what I saw and
8 every building was the same and I just --

9 BOARD MEMBER MALINOUSKY: But,
10 again, you know, can we expect every building
11 to be different so it conforms to the
12 ordinance?

13 VICE CHAIRMAN JONES: Variety.

14 BOARD MEMBER MALINOUSKY: That would
15 be --

16 VICE CHAIRMAN JONES: But I
17 understand what the -- I understand what the
18 architect -- or the developer is trying to
19 achieve. We have an obligation as a town to
20 meet the Fair Share. They have an obligation
21 or an opportunity to build on the site.

22 So, you know, we're trying to --
23 we're trying to find that --

24 BOARD MEMBER MALINOUSKY: Balance.
25 I agree.

1 VICE CHAIRMAN JONES: I mean, you
2 can move the facade left and right, you can
3 move in and out, and all those other things
4 kind of make it a little bit different. You
5 see that new housing development. So all they
6 do is move the gable to the left, to the
7 right, over the door, over the window, and it
8 kind of changes the look and feel. And I get
9 it that the applicant is trying, you know --
10 they need to develop something that can be
11 profitable for them and meet their commit --
12 our commitment.

13 MAYOR RAE: You know, I think we
14 have to, you know, look at it and say this is
15 not Reaville down there. It's not Jonesville.
16 It's a development that is going to be built.
17 And we had an ordinance; the site plan meets
18 the specs; it meets the specifications of the
19 ordinance. And so, you know, the applicant
20 came a couple years ago. We said, no, take
21 that off. Take that away and bring me back
22 something better. They then brought something
23 back and we said, no, take that away. We want
24 something else.

25 I mean, we have to -- you know,

1 we're kind of -- you know, we have to -- you
2 know, as I say, we're late in the game and I
3 think we have to work with the -- work with
4 the applicant in terms of tweaking, not
5 multiple changes here. And that seems to
6 be -- you know, we're kind of building it to
7 our, you know -- you know, some of us are
8 saying it doesn't meet my personal aesthetic
9 and therefore we should change it or we
10 should -- you know, they should bring back
11 something that does.

12 That's not the situation we're in
13 here. And so, you know, as I say, tweaks,
14 sure, we can -- I'd certainly be in favor of
15 that; but anything more than that, I think
16 we're putting ourselves in a very, very bad
17 position.

18 CHAIRMAN HANDS: Alan, then to
19 Michael, then I'd like to end the conversation
20 and hand it over to the public, if you don't
21 mind, then chiming in.

22 MR. REGAN: And, Bridget, I'm trying
23 to be a good --

24 CHAIRMAN HANDS: You want to have a
25 quick comment before we go to Michael?

1 Then --

2 BOARD MEMBER PFEIL: I would agree
3 with Mayor Rae. In terms of the height --

4 MR. LANZAFAMA: Can you hear me?

5 BOARD MEMBER PFEIL: -- I think the
6 height is conforming. I don't think that's an
7 issue. I wouldn't mind -- that's why I asked
8 Liz that question. I wouldn't mind seeing
9 some architectural tweaks. If the developer
10 can jump in at some point and tell us how they
11 could do that, I'd certainly be satisfied with
12 that.

13 CHAIRMAN HANDS: Thank you.

14 Michael.

15 MR. LANZAFAMA: All right.

16 Mr. Chairman, you know, the only thing I
17 wanted to reiterate is what Liz said with
18 regard to our review of the ordinance and the
19 bulk standards. In my opinion, they do
20 comply, and especially the buildings that are
21 oriented towards Division, what they've done
22 is they've turned them to reduce the mass that
23 faces the street. So I think they were trying
24 to meet the spirit of the ordinance.

25 And as far as the definition of

1 height, I think it's compliant. Your
2 ordinance just simply says the lowest grade
3 adjacent to the foundation to the highest
4 point of the roof. And it doesn't say
5 existing grade. So one has to assume, as we
6 do with most site plans that I've worked with,
7 is it's a measurement from the finished grade
8 around the foundation.

9 And as far as the orientation, as
10 I've said, I think they've met the spirit by
11 most of, if not all, of the buildings' fronts,
12 which are the longer facade, face the interior
13 roadways. And in almost every instance
14 between the public right-of-way and the
15 building, there is some internal roadway for
16 parking in almost every instance.

17 So in my mind, they are consistent
18 with the ordinance.

19 And as Liz pointed out, when you
20 have inclusionary development, you're trying
21 to assist the developer in the ability to
22 provide those affordable units at a cost. And
23 by creating a -- sorry for the use of the
24 word -- but a cookie-cutter building allows
25 for economy of development, economy of

1 construction. You can build the same building
2 pretty much over and over again and it creates
3 a very efficient, cost-efficient, way to
4 provide housing for people.

5 That's not to say you cannot
6 introduce, without a significant cost change,
7 some variations in the rooflines, introduction
8 of some changes in the fenestration or the
9 articulation of the facades and still maybe
10 have only two building types that are
11 intermingled throughout the development.

12 So I hope that lends some comfort to
13 the Board. And as Mayor Rae has pointed out,
14 you know, we're pretty late in the game,
15 tonight's hearing, for this application. But
16 as the Vice-Chairman points out, you're going
17 to be living with this for a very, very long
18 time and you want to try and get it right.
19 It's a balancing act and it's not an easy one.

20 CHAIRMAN HANDS: Exactly. It's a
21 balancing act.

22 Thank you, Board members. I know
23 it's taken us 45 minutes to get through the
24 conversation, but I wanted to give Liz the
25 opportunity to discuss some thoughts and

1 considerations based upon, in part, with the
2 recent public conversation. I think it would
3 be a disservice if we didn't have that
4 conversation, we didn't have that professional
5 opinion and -- and supported by Michael there.
6 But at some point it is. I mean, the letter
7 of the law, to dot the I, cross the T, that's
8 not the question to me. To me, it's more
9 about we do have something that we want us all
10 to be proud of in town assuming it goes
11 forward so let's at least have that
12 conversation. And, Bob, I hope I did not put
13 you on the spot here, hopefully not. Maybe
14 there's something you maybe want to reflect
15 upon. And this is not to be eleventh hour
16 conversation or anything like that. It's just
17 we need to have a conversation at an
18 appropriate time or at least to have the
19 conversation and allow Bob just to give you
20 some moments of thought, if there's anything
21 you wish to take away from this conversation.

22 MR. REGAN: Mr. Chairman, before Bob
23 speaks, and I'll --

24 CHAIRMAN HANDS: Sorry. I should
25 have asked --

1 MR. REGAN: No, it's okay. It's
2 okay. No worries. I just want to make it
3 clear that, you know, the applicant's position
4 all along, based on the design that it
5 presented to the Board with the application,
6 you know, as well as all of the testimony from
7 all of its professionals, you know, is
8 consistent with the opinions of the Board
9 planner and the Board engineer as to height,
10 orientation of the buildings. So I don't
11 think there's any question of height being an
12 issue.

13 It's clear to me that obviously
14 design, you know, is a concern, but as the
15 mayor pointed out, the concern I have on
16 behalf of the applicant is, you know, what are
17 you looking for? You know, the idea of
18 presenting multiple options to the Board is
19 really not viable and it's not something
20 that's really appropriate.

21 I'll let Bob address, you know,
22 the -- tweaking the architectural of the
23 buildings and whether that's something that --
24 you know, that the applicant is willing to
25 consider.

1 So, Bob, I'll turn it over to you.

2 MR. FOURNIADIS: First, I'd like
3 Jolanta to define "tweaking" for me before I
4 can give an opinion on what that means. And,
5 look, all kidding aside, this is our ninth
6 meeting. We had two, maybe three, TRC
7 meetings before we had our first public
8 hearing. We followed the ordinance, and I'm
9 glad to hear the professionals agree that we
10 submitted a fully conforming application
11 because that was our goal.

12 I've spent a lot of time in this
13 town. I've been involved in this project
14 since 2014. And I've seen the apartment jobs
15 that you have in the town. All the buildings
16 looking the same. The townhouse project just
17 on the other side from us, every townhouse is
18 identical. I don't know what anybody expects
19 here, and if they expected something
20 different, I guess it should have been in the
21 ordinance.

22 But to ask us now to come back with,
23 you know, three or four different
24 architectural designs? I'm not going to do
25 that. That's crazy. To -- look, at the end

1 of the day, I don't think there's anything we
2 could have presented here that would have made
3 the residents happy. It's been clear from the
4 beginning that they don't want this project;
5 they don't like this project.

6 The plan from the firehouse that
7 everybody is now nostalgic about was
8 unequivocally and resoundly rejected as being
9 unimaginative, soulless, and barracks-like.
10 So it's kind of interesting that three years
11 later, everybody's longing for it.

12 But having said that, we're willing
13 to talk with the professionals. We're willing
14 to talk with Mr. Kaufman. He's an architect.
15 If we can make some changes to some of the
16 finishes on the buildings to maybe make them a
17 little more appealing to our people.

18 I will just parenthetically add that
19 this similar design is, as I mentioned many
20 times, similar to the townhomes I designed for
21 Wesmont Station, Liberty Square at Wesmont
22 station, townhomes that are a combination of
23 brick and siding and gingerbread that sell for
24 between 600- and \$800,000. So people who are
25 buying those homes don't think they're ugly or

1 cookie cutter.

2 I don't have a problem, but I'm not
3 going to pause the application or extend it
4 indefinitely, or maybe even extend it at all,
5 so we can have an architectural committee come
6 in front of you with three or four options and
7 then have everybody give their opinion and
8 then have another half a dozen meetings to do
9 that. You want some more gingerbread, fine.
10 You want a little more brick, fine. You don't
11 like the blue? Fine. We'll consider another
12 color. You want to maybe alternate and have
13 some of the buildings with blue siding, some
14 of the buildings with another color siding,
15 that's fine, too. But I'm not going to start
16 from scratch right now and I'm not going to
17 change the site plan. I'm not going to change
18 the buildings.

19 You know, we have a rule book, a
20 zoning ordinance, and you give it to me and
21 you say follow it. We followed it and we were
22 deemed complete. We've got reams of pages of
23 comments. We responded to all the comments
24 and got sign-offs from the professionals.

25 Now, just because, you know, a few

1 people -- and I know they're residents and
2 they have the right to speak up and that's
3 fine -- don't like the buildings, I'm not
4 going to change them, not dramatically,
5 especially since they comply with your zoning
6 ordinance. But I'm willing to -- if you want
7 to put some type of condition in the approval
8 that we'll meet with an architectural
9 committee to try and come up with some
10 modifications to the finishes of the
11 buildings, we can live with that. We've got a
12 lot of work to do before we start construction
13 of the buildings. But anything other than
14 that, we're not going to agree to.

15 CHAIRMAN HANDS: Well, I appreciate
16 that. Thank you for taking that in spirit, as
17 well, in which it was intended. This is just
18 to say, can we just, you know, push a little
19 bit here and there to see if there's some
20 modifications, some modifications we can make.
21 I appreciate at this point the structural
22 open of the properties is how you have it. If
23 we can do something a bit further, I think
24 that would be appreciative. I'm going to
25 share my appreciation to the Board as well if

1 anybody wants to comment back or suggest
2 anything else or what have you, but I think
3 what Bob outlaid there is a reasonable
4 situation.

5 Does anybody want to disagree with
6 that?

7 MS. MAZIARZ: Mr. Fourniadis, I
8 think you defined tweaking. You didn't need
9 me to do it.

10 MR. FOURNIADIS: Thank you. Should
11 have written it down.

12 VICE CHAIRMAN JONES: Mr. Sandow has
13 his hand up.

14 BOARD MEMBER SANDOW: If I may, I'm
15 a little bit concerned that tweaking might be
16 hazardous to this project. I mean, I'm
17 imagining what this would look like if each
18 one of the buildings had a different color
19 brick facade, if each one of the buildings had
20 a different color roof shingle. I think that
21 makes them look less desirable than the
22 uniformity.

23 I understand the barracks look
24 concern, but all things considered, I'd rather
25 not have it look like we were using

1 construction yard scraps to give different
2 colors to each building.

3 MR. FOURNIADIS: And just for the
4 record, I did train at Fort Benning, Georgia
5 and Harmony Church and those were World War II
6 barracks. These are not World War II
7 barracks.

8 CHAIRMAN HANDS: Thank you.

9 So can we just put that forward?
10 Jolanta, how would we proceed from this point
11 on any tweaking, as we say?

12 MS. MAZIARZ: Well, that would all
13 depend on how the Board wants to approach
14 this, whether the Board would want -- because
15 we've already heard what Mr. Fourniadis has
16 said and it's perfectly reasonable that the
17 applicant is not going to come up with another
18 couple of different renditions of plans during
19 these hearings because then these hearings
20 might go on for another nine meetings.

21 But what would be reasonable, I
22 think perfectly reasonable, I think
23 Mr. Fourniadis would agree, is that a
24 condition to any approval, if the Board was to
25 approve this application, that a condition to

1 work with the Board's professionals and
2 perhaps a subcommittee of the Board to come up
3 with a reasonable plan for the
4 architectural -- with the applicant for the
5 architectural, that could be a condition that
6 the applicant has already stipulated to.

7 MR. FOURNIADIS: Just the finishes.

8 MS. MAZIARZ: The finishes, of
9 course.

10 MR. FOURNIADIS: Not the buildings,
11 not the rooflines, yeah.

12 MS. MAZIARZ: No, no, no. We're not
13 re -- if that's acceptable to the Board. If
14 the Board is looking for -- you know, and I
15 don't know what the Board is looking for, if
16 it's a different facade. And I don't know if
17 Mr. Fourniadis would be amenable to having a
18 subcommittee look for an alternative facade,
19 not necessarily altering the roofline or the
20 configuration of each individual building, but
21 the facade, perhaps that's something that the
22 condition can be fashioned to reflect. That
23 this subcommittee would look at that in order
24 to create some differences. Not different
25 enough, as Mr. Sandow pointed out, so that it

1 looks like we're constructing these buildings
2 from scraps, but something different enough
3 that there be some variation, some
4 architectural variation.

5 And I leave that to the
6 professionals because I always say my taste is
7 in my mouth. I have no idea. But I can
8 fashion the condition for you.

9 MAYOR RAE: You know, one thing is
10 where does it end? Right? Like, it sounds
11 all well and good, right, that that's what we
12 do, but the subcommittee works on it, comes
13 back to the Board, other Board members, well,
14 we don't like that. There has to be some --
15 there has to be some end to this. And, you
16 know, as nice as it is to sit here every
17 Tuesday night and discuss this, I think the
18 Board needs to have a finite end as well.

19 MS. MAZIARZ: All right.

20 MAYOR RAE: So it's -- it's -- well,
21 maybe if we said, okay, this is what we want
22 to do. We're only going to look at this
23 detail or that detail, or actually define it
24 and then let the professionals work on it
25 rather than necessarily a subcommittee of the

1 Board because, you know, it just seems to me
2 like there's too many cooks in that kitchen.

3 MS. MAZIARZ: And that's a good
4 point, Mayor. And, you know, to make this
5 easier for me to draft this condition, it's
6 always better for there to be a definitive end
7 point; for there to be as much information for
8 this, whether it be the professionals or a
9 subcommittee looking at the architectural
10 finishes, the more direction that the Board
11 gives, the better the condition and the
12 stronger the condition is. I completely agree
13 with you.

14 So as we are going through the
15 balance of this hearing, I would like to hear
16 more from Board members with respect to what
17 they expect the professionals to be doing. If
18 there is a condition imposed upon this
19 applicant that they're going to work with
20 professionals to come up with different
21 architectural finishes, what types of
22 finishes? What type of a look, at least, does
23 the Board want to see? The more -- the
24 tighter we can get this condition, the better
25 it is for everyone involved and exactly for

1 the reasons that you articulated, Mayor, so
2 that this doesn't go on forever coming back to
3 the Board.

4 Actually, I didn't envision this
5 coming back to the Board, but that is an
6 option. But what Boards generally do, once
7 they grant an approval, a conditional
8 approval, is they will charge their
9 professionals to -- with as much information
10 as possible, to come up with the finished
11 product without the applicant having to return
12 back to the Board. That is ideal.

13 CHAIRMAN HANDS: All right. Would
14 it be fair to ask the Board professionals to
15 work within a time frame to come up with a
16 standard, shall we say, around this discussion
17 and present something? Because, I mean, I
18 wouldn't want to spend time here now debating
19 the facade versus a frontage versus, you know,
20 that type of thing.

21 I think it would be more prudent to
22 have the Board professionals take the first
23 scoping of this request, and if that could be
24 done certainly before another meeting in a
25 couple of weeks, to give us an idea of what

1 we've said and what we're thinking about, and
2 maybe there is a subcommittee of the Board
3 just to work with the professionals on that
4 and come to the Board with a definitive plan
5 or suggestions that --

6 BOARD MEMBER FALVEY: I think
7 Mr. Fourniadis should refuse this and just
8 ride with his application. They put a lot of
9 time and effort into it. It's going to sink
10 or fail on its own merits. At this point I
11 think we're wasting our time. That's my
12 opinion.

13 MAYOR RAE: You know, I have to
14 agree with John, right, because what you're --
15 you know, this whole idea of getting a
16 subcommittee in there, it really -- it just
17 never ends. You know, if we were to move
18 along more along the lines of, you know, from
19 what Jolanta was talking about, where we
20 give -- you know, we can actually address this
21 with some specificity and then hand this over
22 to the professionals, that's a good thing.
23 But if we find ourselves not being able to do
24 that, I think I have to agree with John.

25 BOARD MEMBER SANDOW: I would just

1 like to remind everybody that a camel is a
2 horse designed by a committee.

3 CHAIRMAN HANDS: Let's go back to
4 the professionals.

5 Is that something that -- is that
6 appropriate for you to be able to put
7 something together or is that going to be an
8 opinion that is not appropriate for you guys
9 to outline --

10 MR. FOURNIADIS: Excuse me.

11 Mr. Chairman, could I say something before,
12 you know, anybody else answers that?

13 What I was talking about was colors,
14 basically what Mr. Sandow commented on. You
15 know, if you don't like the blue, we have
16 gingerbread up in the eaves. If you don't
17 like the gingerbread; if you think there's too
18 much brick, if you think there's, you know,
19 not enough brick. And I would caution you,
20 too much brick always sounds like a good idea,
21 and then if barracks isn't what you wanted,
22 then that's what you're going to get if you
23 put too much brick on 14 buildings on an
24 8-acres site.

25 Again, I'm trying to figure out what

1 it is that people don't like about this
2 product other than the fact that the majority
3 of the people who have shown up and spoken
4 just don't want the job to be built.

5 Yeah, I don't want this to turn into
6 a subcommittee, then we have a disagreement,
7 then we come back and we're deadlocked and
8 then, you know, we end up in --

9 CHAIRMAN HANDS: That wasn't the
10 intent of the subcommittee.

11 MR. FOURNIADIS: I know. But
12 listening to -- and I appreciate Jolanta's
13 compliment that I defined tweak; but listening
14 to her articulate how she would write this, I
15 think I did a very poor job of defining tweak
16 because I don't see how we'd ever come out of
17 it now that we're actually talking about
18 writing this as a condition.

19 CHAIRMAN HANDS: I don't see any
20 point in coming out of it if there's no point
21 in going in it.

22 So what opportunity do we have to
23 make some modifications to the look of the
24 building that at least alleviates some
25 concerns?

1 MAYOR RAE: I guess, David, right,
2 tell me what the concerns are, right, and
3 maybe we start from there, right, and some new
4 analysis. But, you know, I don't want to
5 unravel a whole year.

6 CHAIRMAN HANDS: Right. I don't
7 disagree with that. So in terms of we
8 discussed, we considered the thoughts we've
9 heard over the last few weeks because I know
10 people have got them. Yes, the Millington
11 firehouse plans were probably better, probably
12 prettier than what's been presented. To at
13 least have a conversation to figure out are we
14 beholden to what we have? Is there
15 flexibility to make modifications except in
16 the late nature of the discussion, but at
17 least it sounds fair that that's maybe not a
18 direction to go in.

19 Therefore, what's the next level of
20 alterations that we could present or suggest?
21 And this sounds like a facade and not just --
22 you know, just something hopefully a little
23 bit meaningful that, you know, people are
24 going to say, yeah, it looks like a standard
25 side by side architecturally or visually the

1 same as what we have there. And what I was
2 going to ask was maybe the professionals to
3 come up with a couple of suggestions and maybe
4 work directly with the applicant with that and
5 whether that needs to come back to the Board
6 for just -- whether it be a discussion or
7 just, you know, a review --

8 MR. FOURNIADIS: Chairman, if the
9 professionals could come up, want to present
10 us with a plan of something that they think
11 would be an improvement on the building, the
12 way it's designed from now before the next
13 meeting, since I don't think we're going to
14 get a vote tonight, we'll look at it and we'll
15 either say yes or no. And if we say no,
16 eventually you're going to have to vote on
17 this.

18 CHAIRMAN HANDS: And that's -- thank
19 you for being gracious and accommodating that.

20 BOARD MEMBER PFEIL: So, Paul, just
21 so I'm clear --

22 CHAIRMAN HANDS: Sorry, Paul.

23 BOARD MEMBER PFEIL: I said I think
24 that's a reasonable position.

25 MAYOR RAE: Yes. And, Bob, just so

1 I'm clear, you're talking about design, not
2 just facade, the way it looks, but you're
3 talking about actual design? Is that what
4 you're --

5 MR. FOURNIADIS: No. I'm just
6 talking about -- we have a building that's
7 designed now. You see the renderings.

8 MAYOR RAE: Yep.

9 MR. FOURNIADIS: I'm not going to
10 change the buildings. I'm not going to move
11 the windows. I'm not going to change the
12 roof. I'm not going to move the garages. I'm
13 not going to change the doors. I'm not going
14 to change any of that. But if you can take a
15 look at the elevations of this building and
16 come up with a plan that you think is better
17 than what I've presented, show it to me before
18 the next meeting. And if it's something I
19 think is nice, I'm always looking to improve
20 things. It's not -- it can't be any -- I'm
21 not going to agree to anything that makes
22 these buildings more expensive to build. But
23 if it's something that your professionals can
24 get together and say, hey, this is a lot nicer
25 than what Fourniadis presented, then I'll take

1 a look at it and I can say, yeah, I'll do that
2 or, no, I'm not going to do that. I want a
3 vote. No more extensions, give me a vote. Or
4 one more extension, give me a vote. This way
5 we get it done and you'll know where I stand
6 and we'll know where you stand.

7 CHAIRMAN HANDS: Well, is --

8 MR. LANZAFAMA: Mr. Chairman --

9 MR. FOURNIADIS: Put Mr. Kaufman on
10 the committee. Let him come up with
11 something.

12 VICE CHAIRMAN JONES: Tom, you're
13 muted.

14 BOARD MEMBER MALINOUSKY: That's
15 kind of a good point because I think the
16 changes we're looking to make are
17 architectural changes. I think we would need
18 the advice of an architect to see the best way
19 to get the results we're looking for, for
20 those that want changes.

21 CHAIRMAN HANDS: Well, Bob, are
22 you -- if that's a serious question -- Liz,
23 thank you for that. Obviously it depends on
24 Mr. Kaufman if he wishes to do that.

25 Liz and Mike, would you be -- is

1 that a charge that you could do or do you
2 think this is an unrealistic thing to do
3 anyhow? Is it something you can help us out
4 with in the next couple of weeks?

5 MS. LEHENY: I'm not going to be
6 able to redesign a building or redesign a
7 facade. I can perhaps with the Board say,
8 hey, we would like, you know, whatever it is.
9 And I kind of go to Mayor Rae's point, which
10 is what is it that people don't like? Meaning
11 is it that the buildings appear too bulky? Is
12 it that people don't like the materials or
13 they don't like the sameness of the buildings?

14 I think that would be critical for
15 me and Mike to have that information and I
16 think then we can pass it on to
17 Mr. Fourniadis. But I don't think that we
18 should design the building, no.

19 MR. LANZAFAMA: No. I agree with
20 Liz. We're not architects. And Mr. Alberto
21 perhaps can develop an alternate facade
22 treatment and come back so we don't have every
23 building looking exactly alike. Maybe we have
24 two different facade treatments, you know, as
25 Mr. Fourniadis pointed out, and maybe we just

1 variate the color in the siding or for the
2 brick style or type and have two schemes so
3 that every building isn't exactly alike.

4 At this point in time, for him to
5 change the massing of the building and
6 rooflines, I've got to admit I don't think is
7 fair at this point.

8 BOARD MEMBER SANDOW: Just a
9 reminder of the Sarah Lee commercial.
10 Everybody doesn't like something.

11 CHAIRMAN HANDS: Bob, if you -- if
12 you would contemplate maybe just a call from
13 Jordan along with Liz and everybody, would
14 that be --

15 MAYOR RAE: David, just say they
16 don't think it's appropriate or it's not
17 necessarily something that they feel
18 comfortable doing. So why are we getting Bill
19 involved in something that the two other
20 people aren't really that into. I don't get
21 it.

22 CHAIRMAN HANDS: We'll leave it to
23 our professionals to have that discussion with
24 Mr. Kaufman.

25 But, Bob, what are your thoughts?

1 MR. FOURNIADIS: I'm not going to
2 have our architect redesign anything. If
3 somebody wants to make a suggestion before the
4 next meeting, I'm happy to consider it. And
5 it's up to them, but I'm not agreeing in
6 advance to agree to anything. I'll be
7 reasonable, as I think I've been through this
8 whole hearing and through most of my career,
9 maybe all of my career. But if it's something
10 that I think is going to add time or expense
11 or get us down a rabbit hole and continuing
12 this project into the foreseeable future, then
13 I'm just going to say, no, we're not changing
14 anything.

15 So by the next meeting you'll know
16 if anything's going to change or not and then
17 you can take that under consideration when you
18 finally go for a vote.

19 CHAIRMAN HANDS: Okay. So you're
20 open to if we come back to you with
21 suggestions?

22 MR. FOURNIADIS: I will look at it
23 just like we've looked at the suggestions made
24 by your professionals over the past 10 months,
25 11 months.

1 VICE CHAIRMAN JONES: Mr. Chairman,
2 we're at a pause now, so I think it would
3 probably be beneficial to go along with the
4 agenda.

5 CHAIRMAN HANDS: Yeah. I agree. I
6 think we've got our action there. That's
7 great.

8 Deb, do we want to continue on now
9 with the public testimony? I think that's
10 where we were at.

11 COORDINATOR COONCE: That's -- if
12 the Board's ready to do that. I would say
13 that at this point, though, the public needs
14 to have an opportunity to ask questions of
15 Liz -- Liz's testimony that she gave.

16 CHAIRMAN HANDS: Of course.

17 I see three hands up.

18 COORDINATOR COONCE: Yes. So I will
19 start with Mr. Arentowicz.

20 Chuck. Mr. Arentowicz?

21 VICE CHAIRMAN JONES: He muted.

22 COORDINATOR COONCE: Mr. Arentowicz,
23 are you there? You have to unmute yourself.
24 Chuck.

25 CHAIRMAN HANDS: Move on to Pam

1 then.

2 COORDINATOR COONCE: Okay.

3 CHAIRMAN HANDS: We can come back.

4 COORDINATOR COONCE: Pam, are you
5 there? Pam?

6 MS. OGENS: Yes. Can you hear me?

7 COORDINATOR COONCE: Yes.

8 MS. OGENS: Okay. Liz -- can I call
9 you Liz? You can call me Pam.

10 MS. LEHENY: Yes.

11 MS. OGENS: My question is there was
12 discussion about developing the site and
13 considering how many affordable housing units
14 can be developed on this or any site.

15 Would it be correct to say that one
16 way you can or a township can accommodate
17 additional affording -- affordable housing
18 units on a given site is to exceed the
19 absolute lowest possible percentage of
20 affordable housing? For rentals it has to be
21 at least 15 percent, is that correct?

22 MS. LEHENY: Yes. According to the
23 terms of the settlement agreement, it's 15
24 percent. This is -- the 15 percent if it's
25 rental, 20 percent if it's ownership, is

1 something that Fair Share Housing Center has
2 imposed on -- you know, just sort of uniformly
3 around the state. It's based on COAH, the
4 Council on Affordable Housing, rules where
5 they require 15 percent for rentals and 20
6 percent for ownership.

7 So, I mean, the idea is you don't
8 want to impose on the developer a percentage
9 of set aside that would then make the project
10 completely unfeasible. Because, I mean, the
11 ultimate goal is the creation of affordable
12 housing.

13 MS. OGENS: Gotcha.

14 So I'm looking at Warren Township
15 and their inclusionary sites. And they have
16 done a breakdown of total acres of their 11
17 inclusionary sites into total acres --
18 developable acres of the total acres.

19 And unless my math is wrong,
20 although I was a good student, I see none at
21 less than 22 percent.

22 MS. LEHENY: I don't -- I don't know
23 what the terms of Warren Township are.

24 Sometimes there are things called vacant land
25 adjustments where then, in the negotiations of

1 Fair Share Housing, they might have -- they
2 may require 20 percent across the board.

3 I don't know if they in Warren --
4 and, I mean, actually, Jolanta, if you want to
5 speak to this --

6 MS. MAZIARZ: I can.

7 MS. LEHENY: Okay.

8 MS. MAZIARZ: In full disclosure,
9 I'm an elected official in Warren
10 Township.

11 MS. OGENS: Yes, I'm aware of
12 that.

13 MS. MAZIARZ: I'm a committee
14 member.

15 The reason why the percentage is
16 skewed in Warren is because we don't have the
17 durational adjustment the way Long Hill does.
18 We owed many more units than Long Hill and we
19 were able to procure one 100 percent
20 affordable development. So that means it is
21 not an inclusionary development.

22 So in order to get all of those
23 affordable units, we were able to attract a
24 developer to build a 100 percent affordable
25 development with New Jersey HMFA funding on a

1 site within our township. So there is no set
2 aside there. They're all affordable units in
3 that one development. So that tends to skew
4 the numbers a little bit.

5 And Long Hill does not have any
6 hundred percent affordable development. Those
7 are very hard to come by.

8 MS. OGENS: Well, I'm looking at
9 the -- what's available on site and, yes, I do
10 see that North Hill is 100 percent affordable
11 housing. It's a total of ten units.

12 But taking that out of the factor,
13 if you remove that one 100 percent, of the
14 remaining ten, none are less than 22 percent.

15 MS. MAZIARZ: You're talking about
16 Warren Township? Then you're looking at the
17 wrong settlement agreement because the
18 development on Lindbergh Avenue has many, many
19 more than ten. Multiples of ten.

20 MS. OGENS: This says North Hill.
21 So it might be that I'm looking --

22 MS. MAZIARZ: I think you're looking
23 at the wrong one. We have a 100 percent
24 affordable development on Lindbergh Avenue.
25 And that -- it does skew the numbers, but as a

1 totality, yes, we did very well, but that's
2 because our obligation was very much higher
3 than Long Hill Township because we didn't get
4 a durational adjustment the way Long Hill did.

5 MS. OGENS: Right.

6 MS. MAZIARZ: We have capacity for
7 sewer, water, everything. We don't have as
8 much environmental -- you know,
9 environmentally sensitive land, steep slopes,
10 as Long Hill does. So --

11 MS. OGENS: Yeah, I can appreciate
12 that, you know, you can't compare it exactly.

13 Where's Wagner Farm? Is that Warren
14 Township or...?

15 MS. MAZIARZ: Wagner Farm is in
16 Warren Township, yes.

17 MR. REGAN: Mr. Chairman --

18 MS. OGENS: Okay, so the list that I
19 have does have more --

20 (Indiscernible cross talk; reporter
21 requests one speaker.)

22 MR. REGAN: I'm just --
23 Mr. Chairman, I'm just objecting to
24 discussions about Warren Township --

25 CHAIRMAN HANDS: Yeah. Pam, do you

1 think you can move that along a bit, please?

2 MS. OGENS: I'm just saying --

3 (Indiscernible cross talk; reporter
4 requests one speaker.)

5 MS. MAZIARZ: I'm sorry. The point
6 is we're talking about two completely
7 different towns. And I'm just trying to
8 explain why there's -- the numbers are skewed.
9 And they're skewed, trust me, because of the
10 100 percent affordable development which Long
11 Hill doesn't have. We're talking about apples
12 and oranges. It's totally two different
13 things.

14 MS. OGENS: Okay. I can appreciate
15 that.

16 My question was that we are looking
17 at a site that has -- is going to be the
18 absolute minimum of 15 percent and that's --

19 MS. LEHENY: I'm sorry to interrupt
20 you. That is the -- you know, those are the
21 -- that is consistent with the terms of the
22 settlement agreement and it's not --

23 MS. OGENS: Okay.

24 MS. LEHENY: -- honestly it's not
25 for this Board, especially not now, to sort of

1 question those terms. It's a legal contract
2 that has been in place.

3 MS. OGENS: Gotcha. If nothing
4 else, we can learn for the future.

5 CHAIRMAN HANDS: Thank you, Pam.
6 Jon, are you up next?

7 COORDINATOR COONCE: Well, let's go
8 back to Chuck and see if we can get him back
9 up.

10 CHAIRMAN HANDS: Oh, yes.

11 COORDINATOR COONCE: Mr. Arentowicz?

12 CHAIRMAN HANDS: Still not.

13 COORDINATOR COONCE: I'm pushing
14 unmute and I'm not really -- Mr. Arentowicz,
15 are you there?

16 CHAIRMAN HANDS: No.

17 COORDINATOR COONCE: I don't know
18 what's -- it's not -- Mr. Arentowicz, if you
19 can hear me, you're not muted on my end, so I
20 don't know what's happening for you tonight.

21 I'm going to Jon Caputo.
22 Mr. Caputo?

23 MR. CAPUTO: Yes. Hi. Good
24 evening. Thank you.

25 I don't have a question for

1 Ms. Leheny, but, Chairman, I have a procedural
2 point. I was included on an e-mail sent by a
3 member of the public to the Board earlier this
4 week requesting that a professional that has
5 been engaged by the public be heard
6 specifically to this point. I just wanted to
7 get it on the record that I believe they have
8 set up this person to testify at the next
9 meeting on November 10th. I don't know if we
10 have to do anything procedurally to ensure
11 that that happens.

12 MS. MAZIARZ: Well, first of all,
13 you're saying some professional was retained
14 by the public. Is this professional an
15 attorney?

16 MR. CAPUTO: It's a -- this person,
17 I believe, is a professional planner.

18 MS. MAZIARZ: Okay. Then someone
19 hired this professional planner to represent
20 them. And my understanding is they intend to
21 testify at the next Board meeting. However,
22 this person does not represent the public
23 unless they're an attorney. And no one
24 individual may represent the public unless
25 they are an attorney.

1 So if there is someone purporting to
2 represent the public, then they need to be an
3 attorney. That's all I can tell you. Just as
4 a point of order.

5 MR. CAPUTO: Okay. Would they be
6 permitted to testify as a member of the
7 public, however?

8 MS. MAZIARZ: Any member of the
9 public can testify on their own behalf.
10 However, the rule of thumb is that no member
11 of the public may testify on anyone else's
12 behalf unless, you know, you're from the same
13 household, I suppose. But if you purport to
14 represent any other individual, you need to be
15 an attorney. Otherwise, you are engaging in
16 the unauthorized practice of the law.

17 So if there is someone who is
18 purporting to represent the public in general
19 or a group of members of the public, they need
20 to be an attorney. Now, that's not to say
21 that an individual from the public cannot
22 engage a professional such as a planner. That
23 can occur. But I just -- I just need to put
24 this out there just in case that there's a
25 member of the public that is purporting to

1 represent the public, they need to be an
2 attorney.

3 MR. CAPUTO: Okay. Thank you.

4 MS. MAZIARZ: Okay. Thank you.

5 MR. CAPUTO: That's all I have at
6 this point.

7 COORDINATOR COONCE: Okay. So let's
8 try Mr. Arentowicz again.

9 Mr. Arentowicz? Mr. Arentowicz?

10 CHAIRMAN HANDS: Go to Mike.

11 BOARD MEMBER PFEIL: Chairman, we've
12 been at this an hour and a half. Can we do a
13 ten-minute break?

14 CHAIRMAN HANDS: Michael is the last
15 person who has his hand up, if we can't get
16 ahold of Chuck.

17 BOARD MEMBER PFEIL: Okay. Yes.

18 COORDINATOR COONCE: Mr. Arentowicz,
19 I'm going to lower your hand and I think you
20 should try to recall in or do a new
21 connection. And for now we'll go to Michael
22 Lloyd.

23 Mr. Lloyd.

24 MR. LLOYD: How we doing, everyone?
25 Can you guys hear me?

1 COORDINATOR COONCE: Yes.

2 MR. LLOYD: Okay. Perfect. Allow
3 me to introduce myself. I'm 35 years old.
4 I'm a resident of Long Hill Township, born and
5 raised here from when I was one to when I was
6 25 and recently purchased my parents' own home
7 in Millington, New Jersey, for the past two
8 years.

9 I have a strong ambition to see this
10 property be developed and be successful.

11 I also understand the perspective of
12 the builder, the Board, the town, and all the
13 troubles with the aesthetics.

14 I also understand that from a
15 builder's perspective, there's different CAPEX
16 and OPEX drivers that the builder needs to be
17 successful.

18 To Mr. Jones's point, whatever we're
19 going to be building is going to be there for
20 50 years, right? And this is right next to my
21 home. Maybe not right next to my home. Maybe
22 like a half a mile away. But I think that we
23 have a really strong possibility of building
24 something that will be great.

25 I know I have no influence over this

1 Board or the decisions that are made. I just
2 wanted to offer my personal perspective to
3 anyone willing to take it. If it's a
4 subcommittee, even if it's outside of the
5 realms of the traditional means, I would be
6 very happy to speak with anyone for any reason
7 to make the right decisions for this town and
8 help this project move forward in the right
9 ways for the right reasons.

10 And that is all. Thank you.

11 COORDINATOR COONCE: Okay. Thank
12 you, Mr. Lloyd.

13 All right. I would -- if we want to
14 take a break, let's do that and then go back
15 to questioning.

16 CHAIRMAN HANDS: That's fine. It's
17 9:10. What do we say, 9:20?

18 BOARD MEMBER PFEIL: Great.

19 VICE CHAIRMAN JONES: Yes,
20 Mr. Chairman.

21 CHAIRMAN HANDS: Thank you, all.

22 COORDINATOR COONCE: Okay.

23 (Whereupon, a recess is taken.)

24 CHAIRMAN HANDS: All right.

25 COORDINATOR COONCE: All right.

1 We're back recording. So should I -- let's
2 ask Mr. Arentowicz now to join the
3 conversation.

4 Ready? Mr. Arentowicz?

5 MR. ARENTOWICZ: Can you hear me?

6 COORDINATOR COONCE: Now we can hear
7 you.

8 MR. ARENTOWICZ: Please understand
9 the Zoom meetings are very difficult. I am
10 using an iPad in the Hamptons for the first
11 time. I've had technical support from New
12 Jersey, California, and Chicago. I believe I
13 now have it working.

14 If Mr. Rae and the Township
15 Committee thinks the Zoom meetings work
16 perfectly, they're mistaken.

17 Now, my question is -- my first
18 question is, based on -- I love your smile,
19 Mr. Rae -- based on Bill Kaufman's testimony
20 two weeks ago, why did not the planner, the
21 attorney, and the engineer comment on whether
22 we're before the wrong Board, what the
23 variances are or are not? Looking for all
24 three responses from the planner, the
25 attorney, and the engineer.

1 MS. LEHENY: I'll -- I'll start,
2 Mr. Arentowicz.

3 MR. ARENTOWICZ: Great.

4 MS. LEHENY: Liz Leheny.

5 I don't believe that there is a
6 height variance required. And the height
7 variance, a D-6 height variance, would be the
8 reason that it would be before the Zoning
9 Board. And it's my interpretation of the
10 ordinance that it's not required. So that is
11 why it's in front of the right -- in my
12 opinion, the correct Board, the Planning
13 Board.

14 MR. ARENTOWICZ: Why didn't you
15 speak that two weeks ago?

16 MS. LEHENY: Well, I did -- you
17 know, I thought Mr. Kaufman's testimony was
18 compelling. I wanted to consider it fully. I
19 wanted to read it again and listen to it
20 again. And I wanted to look at the ordinance
21 again to see if I had screwed up. And I
22 needed the time to consider it and so that's
23 why I waited two weeks to provide my reply.
24 So I feel that it would be -- better serve the
25 Board and the public if I had had more time to

1 consider it.

2 MR. ARENTOWICZ: Engineer?

3 MR. LANZAFAMA: Engineer says that,
4 as I've said over and over again, that I felt
5 that the application was compliant as to
6 height. And I didn't remember Mr. Kaufman
7 saying that we were before the wrong Board, so
8 I didn't think I had to respond to that.

9 MR. ARENTOWICZ: He did say that.

10 MR. LANZAFAMA: Then I missed it.
11 Maybe I --

12 MR. ARENTOWICZ: Well, watch the
13 replay. Watch the video.

14 MR. LANZAFAMA: Well, in my opinion,
15 there's no variance required here. There's no
16 height variance. That would be the only thing
17 that would trigger a Board of Adjustment
18 application. I concur with Liz totally.

19 MR. ARENTOWICZ: All right.
20 Attorney.

21 MS. MAZIARZ: Yes, Mr. Arentowicz.
22 Because our last couple of meetings were
23 dedicated to listening to our residents. We
24 wanted to give our residents our full
25 attention. We wanted to hear what they had to

1 say and we wanted to consider it seriously, as
2 Ms. Leheny already indicated, before we came
3 back with a response.

4 My initial reaction immediately is
5 that these professionals have already looked
6 over this application. We engaged with the
7 applicant when this application was first
8 submitted to the Board and we were very
9 comfortable and satisfied with the fact that
10 it was before the first -- before the
11 appropriate board.

12 However, we wanted to also give the
13 public an opportunity to say their piece as
14 well and for us to go back and evaluate their
15 interpretation. And that's why I waited for
16 my fellow professionals to go back and review
17 and I reviewed it with them. And I concur
18 with Ms. Leheny and Mr. Lanzafama's findings.

19 MR. ARENTOWICZ: I don't understand.
20 Why didn't you respond two weeks ago? You,
21 yourself, without the engineer and without the
22 planner. You've got all these years'
23 experience, worked for all these towns.
24 You're a municipal attorney. And you can't
25 respond.

1 VICE CHAIRMAN JONES: I'm sorry,
2 Mr. Chair. Are we not supposed --

3 MS. MAZIARZ: Well, I can respond,
4 Mr. Arentowicz --

5 (Indiscernible cross talk; reporter
6 requests one speaker.)

7 MR. ARENTOWICZ: One speaker,
8 Mr. Jones.

9 MS. MAZIARZ: I'm sorry. I'm sorry.
10 Mr. Arentowicz, I absolutely can
11 respond, but out of --

12 MR. ARENTOWICZ: Great.

13 MS. MAZIARZ: -- respect for all of
14 the members of the public who have a right to
15 speak, I believe in due process,
16 Mr. Arentowicz, and I want to make sure that
17 you are heard before we respond to you.

18 And I also wanted to make sure that
19 I went back and I discussed this with the
20 other professionals because I'm not the only
21 professional that represents this Board. We
22 also have a professional planner and a
23 professional engineer who also deal with these
24 terms. And these are planning terms.

25 MR. ARENTOWICZ: Yeah. But if you

1 can speak on your own accord, I would expect
2 you to do that based on your own experience.

3 MS. MAZIARZ: And I did so when I
4 spoke with --

5 MR. ARENTOWICZ: No, you didn't --

6 (Indiscernible cross talk; reporter
7 requests one speaker.)

8 MR. ARENTOWICZ: The attorney didn't
9 speak two weeks ago. I'm sorry.

10 THE REPORTER: I cannot get this if
11 more than one person is speaking at a time.

12 MR. ARENTOWICZ: The attorney didn't
13 speak two weeks ago. I'm sorry.

14 MS. MAZIARZ: Okay, Mr. Arentowicz.
15 So I'm speaking today. So I'm sorry I didn't
16 speak two weeks ago. I wanted to make sure
17 that I heard you.

18 CHAIRMAN HANDS: Thank you.

19 MR. ARENTOWICZ: Great. Mr. Jones,
20 you were not at the meeting two weeks ago.
21 Now you're going to go before the municipal
22 building. It's closed. So how are we going
23 to verify that?

24 VICE CHAIRMAN JONES: I thought
25 these are questions for the --

1 MR. ARENTOWICZ: No, these are
2 questions across the board.

3 MS. MAZIARZ: No, these are
4 questions for the planner's testimony,
5 Mr. Arentowicz.

6 VICE CHAIRMAN JONES: I'm not
7 answering that question.

8 MR. ARENTOWICZ: Well, he testified
9 that he's going to go before the municipal
10 building to verify that he listened to the
11 meeting. So that's telling me --

12 MS. MAZIARZ: Mr. Arentowicz, I --
13 (Indiscernible cross talk; reporter
14 requests one speaker.)

15 MR. ARENTOWICZ: I agree.

16 MAYOR RAE: David, I think we need
17 to take control here.

18 MR. ARENTOWICZ: Yeah. I do, too,
19 Mr. --

20 COORDINATOR COONCE: Okay. I just
21 muted Mr. Arentowicz for the moment. So
22 whoever would like to finish. Vice-Chairman
23 Jones, since you were being interrupted by
24 Mr. Arentowicz, he is currently muted for the
25 time being so you may finish your statement.

1 VICE CHAIRMAN JONES: Thank you very
2 much.

3 Mr. Hands, I will be going to the
4 Town to submit my signed affidavit testifying
5 that I did listen to the October 13th, 2020,
6 Planning Board meeting in its entirety.

7 COORDINATOR COONCE: Yes. So that's
8 a procedure question. He has certified that,
9 and it's just a piece of paper that he will be
10 bringing to the municipal building.

11 VICE CHAIRMAN JONES: Fine.

12 MS. MAZIARZ: And to our Planning
13 Board secretary's point, Mr. Jones, at the
14 beginning of this meeting, indicated on the
15 record that he had listened to the recording
16 of the last hearing. That is on the record.

17 Now, he is going to submit an
18 affidavit to that effect and this should not
19 affect Mr. Jones's ability to vote at the end
20 of this application because he's already so
21 certified.

22 And this is a time for questions for
23 Ms. Leheny and her testimony and not
24 everything that has occurred up until this
25 point.

1 CHAIRMAN HANDS: That's fine.

2 COORDINATOR COONCE: Mr. Arentowicz,
3 you are unmuted. Go ahead.

4 MR. ARENTOWICZ: Oh, thank you so
5 much. You're all so gracious.

6 My question is, if the municipal
7 building is closed, as Mr. Rae has dictated to
8 the Town, how can Mr. Jones get his affidavit
9 there?

10 COORDINATOR COONCE: Mr. Arentowicz,
11 you're fully aware, and I know you know this,
12 that we have drop boxes.

13 MAYOR RAE: We're answering
14 questions that are not -- do not pertain to --

15 COORDINATOR COONCE: Agreed.

16 MAYOR RAE: -- Liz's testimony. So
17 if there aren't questions pertaining to that,
18 let's move on to the next speaker. As
19 entertaining as this is, it's getting late at
20 night.

21 MR. ARENTOWICZ: Brendan, I have all
22 night. Okay? I'm out in the Hamptons helping
23 you guys decide where we're going. So I don't
24 want to get questioned that we don't have
25 time. I've got all night.

1 MAYOR RAE: Can we --

2 BOARD MEMBER PFEIL: Let's move on.

3 MR. ARENTOWICZ: Brendan, don't --

4 COORDINATOR COONCE: I just muted
5 Mr. Arentowicz again.

6 CHAIRMAN HANDS: Thank you.

7 BOARD MEMBER PFEIL: Mr. Chairman,
8 let's move on. This is ridiculous.

9 CHAIRMAN HANDS: Yeah, I agree. The
10 only point is Tom is going to deliver a paper
11 to Deb at Town Hall and that's it.

12 BOARD MEMBER FALVEY: Enough. We've
13 said what's happening. Move on. Enough.

14 COORDINATOR COONCE: Okay. Does the
15 Board want me to unmute Mr. Arentowicz to ask
16 him if he has any further questions for
17 Ms. Leheny or are we moving on to other
18 questions from another individual?

19 VICE CHAIRMAN JONES: Motion to move
20 on.

21 BOARD MEMBER PFEIL: I agree. Let's
22 move on.

23 COORDINATOR COONCE: So done. Okay.
24 Mr. Caputo, his hand is up again.
25 Go ahead, Mr. Caputo.

1 MR. CAPUTO: Just a question for
2 Ms. Leheny. Regarding the orientation of
3 buildings as they're located on the site, you
4 testified that because the buildings in the
5 center of the site have a private street or
6 parking lot dividing them from Division, you
7 believe that they are not -- even though they
8 are showing their face to Division Avenue,
9 that the private way and parking lot is
10 actually the important determining factor, is
11 that true?

12 MS. LEHENY: No. Actually, no.
13 What I intended to say, and hopefully I did,
14 was that the front facade is the determining
15 factor in terms of what it's facing.

16 So with the exception of -- I
17 mean -- well, let me step back for a second.

18 I think that is true. I think
19 that's certainly true. I think it's Building
20 14 where it is -- the front facade is oriented
21 towards the interior roadway and the parking
22 areas. But the other buildings that are
23 closest to northern -- the northern boundary
24 and also along the eastern boundary, their
25 front facades are not facing either Division

1 or the northern boundary.

2 MR. CAPUTO: Okay. But if there
3 were a hypothetical building that were -- that
4 was facing Division, but it was set back some
5 distance, then that -- we would not consider
6 that in the Merriam Webster definition?

7 MS. LEHENY: No, no, no. That's not
8 what I testified to at all. Yeah. No,
9 Mr. Kaufman had pointed out, and he's correct,
10 there is nothing in the ordinance that says,
11 hey, you could be 500 feet away and if you're
12 facing Division and there's nothing between
13 you and Division, you know, that -- you know,
14 the height -- you're still facing Division.
15 So, no, I did not say that.

16 MR. CAPUTO: Okay. I think I
17 understand.

18 So the final point of clarification.
19 Are you considering the garage side or the
20 longer side of the building with the --

21 MS. LEHENY: Well, the -- I'm sorry.
22 Go ahead.

23 MR. CAPUTO: Yeah. Which is the
24 front?

25 MS. LEHENY: Okay. What I used as

1 the front, which is the front that has also
2 been identified by the applicant, is the one
3 where the garages are and where front doors
4 and entranceways are for six of the ten units
5 in each building. So that's the majority of
6 the units are -- and it's also how the
7 buildings are -- vehicular access is provided
8 to that frontage, which I think in my mind is
9 relevant because of some provisions in the
10 MLUL regarding houses having to be on public
11 streets.

12 I think that the elevation opposite
13 that is clearly the rear. There are no
14 entrances on that. And then the two sides
15 have entryways, but they're narrower and it's
16 two per side. So it's just the two facades
17 and there's also things like trash enclosures
18 and -- sorry, like mechanical enclosures.

19 So in my mind, as the applicant has
20 asserted, I believe that where the garages are
21 is the front facade.

22 MR. CAPUTO: Okay. I'm just trying
23 to recall. At a previous meeting two weeks
24 ago, the Board engineer indicated that it was
25 the longer side.

1 MS. LEHENY: That is the longer
2 side. And I would agree with that. I mean,
3 it --

4 MR. CAPUTO: But there is a
5 difference between the two longer sides,
6 right? That's your opinion?

7 MS. LEHENY: There is. There is one
8 longer side that -- I see what you're saying.
9 I'm sorry. Okay. I understand what your
10 point is. Yes, I think the longer side that
11 doesn't have any entrances is clearly not the
12 front facade.

13 MR. CAPUTO: Okay. Okay. That's my
14 only question. Thank you.

15 CHAIRMAN HANDS: Thank you.

16 Deb, do we still have Chuck's hand
17 up. If we don't have a procedural point from
18 Chuck, rather a question to Liz, can we just
19 have that?

20 COORDINATOR COONCE: Yes. So let me
21 just make a note that, again, Mr. Arentowicz,
22 these are questions for Liz Leheny. We are
23 not talking procedural. So please keep things
24 respectable.

25 Mr. Arentowicz. Hold on. He's on

1 mute. Try that again. Mr. Arentowicz, are
2 you there?

3 MR. ARENTOWICZ: Can you hear me?

4 COORDINATOR COONCE: Yes. Go ahead.

5 MR. ARENTOWICZ: I am astounded
6 tonight about what is going on and what
7 comments we can and cannot make. This is a
8 critical decision for the Township of Long
9 Hill. I'm glad everyone is still awake. It's
10 not happened before, but I'm glad at 9:36
11 you're all still awake. Thank you for
12 dedicating your time and staying awake.

13 Now, I don't understand what the
14 planner is stating tonight about the heighth,
15 the slope, and the issues that Bill Kaufman
16 raised. So if she could explain that, that
17 would be very helpful to Brendan as he's still
18 awake.

19 MS. LEHENY: Could you be more
20 specific? I mean, honestly, my whole
21 testimony, or a good portion of my testimony,
22 was about the building height.

23 MR. ARENTOWICZ: Okay. We have land
24 that sloped down that Committeeman -- or
25 Chairman Pfeil agreed to in March 18th, 20 --

1 March 13th, 2018, that the slope would
2 allow -- you wouldn't see the buildings that
3 high. You can listen to that video, which I'm
4 sure you have, and it's 17 feet of fill. That
5 45- or 50-foot building is now 60 feet 5 -- 60
6 feet -- 65 feet high from Stone House Road and
7 Fireman Rae's fire truck in Millington cannot
8 reach the top of that building.

9 So could you explain how that would
10 be approved and acceptable to the Township?

11 MS. LEHENY: Unfortunately, I'm
12 going to have to sort of punt this to the
13 Borough engineer -- or the Board engineer, who
14 has probably a better understanding of the
15 issues of grade and height and how they, you
16 know, are interwoven. And also I believe that
17 Mr. Lanzafama is more familiar with what the
18 previous application was on the site.

19 So, I don't know, Mike, if you can.

20 MR. LANZAFAMA: Yeah.

21 MR. ARENTOWICZ: Punt if you like.

22 That's okay.

23 MR. LANZAFAMA: Okay. The way that
24 the ordinance is structured is that the
25 definition of height is that it's measured

1 from the lowest finished grade around the
2 foundation.

3 Now, it so happens that that area
4 has been raised through fill to create the
5 grading necessary to support this building
6 configuration and to make sure that all the
7 areas were accessible through ADA.

8 So I don't see that this building
9 and the definition of height in the ordinance
10 says that this building is 65 feet high. It
11 may be 65 feet high from Stone House Road, but
12 under the definitions of the ordinance, it's
13 only 45 feet as measured from the finished
14 grade around the foundation.

15 And as far as fire trucks being able
16 to gain access and fight the fire, fire trucks
17 can access the area through the internal
18 roadway network. That was demonstrated by the
19 applicant's engineer, that fire vehicles can
20 safely navigate those internal roadways, set
21 up outside the front of the building, which is
22 where the garages are, and fight the fire
23 appropriately.

24 So I believe that the ordinance is
25 clear about the definition. I believe that

1 the applicant is compliant with height. And I
2 believe that fire access and fire safety has
3 been addressed.

4 MR. ARENTOWICZ: Well, Mr. Engineer,
5 in my testimony two weeks ago, I stated that I
6 assumed, for some unknown reason, that fire
7 access could only be from Stone House Road and
8 we have a 75-foot fire truck. And I blessed
9 the people on the third floor at Building 3 or
10 6, whatever the corner towards the river,
11 Passaic River, on Stone House Road was, and
12 blessed them because we would not be able to
13 fight it with our current truck assuming,
14 Mr. Engineer, we couldn't gain access any
15 other way.

16 MR. LANZAFAMA: And the name is
17 Mr. Lanzafama.

18 MR. ARENTOWICZ: Oh, I called you
19 Board engineer. I'm sorry.

20 MR. LANZAFAMA: Okay. Well, that's
21 your opinion. But in my professional opinion,
22 there is adequate accessibility around the
23 house -- around the building.

24 MR. ARENTOWICZ: I think we need a
25 new fire truck provided by Prism to the

1 Millington Fire Department.

2 CHAIRMAN HANDS: Chuck, is that the
3 end of your questioning tonight?

4 MR. ARENTOWICZ: So far, depending
5 on what happens later.

6 CHAIRMAN HANDS: Thank you, Chuck.
7 Appreciate it.

8 MR. ARENTOWICZ: Thank you, all.
9 You're all so gracious.

10 CHAIRMAN HANDS: Thank you.

11 I don't see anybody else, Deb. Do
12 you see anybody else?

13 COORDINATOR COONCE: I do not either
14 at this time. Let's see. Wait. Two more
15 hands --

16 CHAIRMAN HANDS: I see Pam just
17 jumped in there quickly.

18 Pam, did you have one more question
19 for the Board engineer before we move on?

20 MS. OGENS: No, I have nothing for
21 the Board engineer.

22 CHAIRMAN HANDS: Planner. I
23 apologize. Planner. Sorry.

24 MS. OGENS: Oh, yeah, planner or
25 engineer. I just wondered when we would be --

1 if not this meeting, then I assume November
2 10th we'd be taking general comments from the
3 public?

4 CHAIRMAN HANDS: Following from this
5 shortly. Thank you, Pam.

6 I thought I saw another hand. It's
7 disappeared.

8 COORDINATOR COONCE: I didn't see
9 any more hands.

10 CHAIRMAN HANDS: Okay. So I think
11 we're at the end of the questions for Liz.

12 Thank you for your updated testimony
13 earlier.

14 Unless there's any commentary from
15 the applicant, we'll pick up again with where
16 we left off last time, which was on public
17 testimony before we get to public comments.

18 MR. REGAN: We have nothing further
19 at this time, Mr. Chairman.

20 CHAIRMAN HANDS: Thank you, Frank.

21 COORDINATOR COONCE: So for the
22 first tonight, now we have Mr. Jon Caputo
23 again.

24 CHAIRMAN HANDS: Public testimony at
25 this point, right?

1 COORDINATOR COONCE: Public

2 testimony, yes.

3 Mr. Caputo?

4 MR. CAPUTO: Yes. Hi. You've heard
5 a lot from me during this process. We have a
6 number of architects in Millington and Long
7 Hill. I'd like to respectfully request that
8 the Board hear me as a professional architect.
9 I'd like to list my credentials.

10 Would that be permitted?

11 MS. MAZIARZ: The Board would have
12 to qualify Mr. Caputo, but first I need to
13 swear you.

14 J O N C A P U T O, having been
15 duly sworn, was examined and testified as
16 follows:

17 MR. CAPUTO: I do.

18 MS. MAZIARZ: Thank you. Can you
19 please state your name for the record and
20 spell your last name?

21 MR. CAPUTO: Yes. It's Jon, Jon
22 Caputo, C-A-P-U-T-O.

23 MS. MAZIARZ: And can you -- and can
24 you please give the Board the benefit of your
25 educational and professional background, your

1 licensure, and whether or not you are still
2 licensed in the State of New Jersey?

3 MR. CAPUTO: Yes, of course. First
4 my address, 1842 Long Hill Road in Millington.
5 My educational background, I hold a bachelor
6 of architecture from Cornell University, a
7 master's degree from the Graduate School of
8 Design at Harvard University, licensed in
9 several states professionally for 15 years,
10 the last nine years in New Jersey. Previously
11 I've practiced and I currently hold a practice
12 in New Jersey, but my New Jersey license is
13 currently active.

14 CHAIRMAN HANDS: Thank you.

15 Yeah, Jolanta?

16 MS. MAZIARZ: Mr. Chairman, do you
17 accept Mr. Caputo as a professional architect?

18 CHAIRMAN HANDS: That's sounds fine
19 to me. Thank you.

20 MS. MAZIARZ: Okay. Thank you.

21 MR. CAPUTO: Okay. Thank you.

22 I submitted a number of exhibits
23 within the last week. They have not been
24 posted, however. Can I confirm that they've
25 been received?

1 COORDINATOR COONCE: In the last
2 week? I don't remember seeing anything in the
3 last week.

4 MR. CAPUTO: October -- I have
5 October 26th, 12:27 a.m. Burning the night
6 oil.

7 BOARD MEMBER SANDOW: I have them.
8 You did distribute them, Debra.

9 COORDINATOR COONCE: I did
10 distribute them?

11 BOARD MEMBER SANDOW: Yes, you did,
12 because I have them. They're marked JC
13 Exhibit Delta and Echo.

14 COORDINATOR COONCE: They went into
15 my spam. Okay. I just found them in my spam,
16 so I did not see them. Okay. I don't believe
17 I distributed them. He had Board members on
18 the --

19 MR. CAPUTO: Yeah. I may have
20 copied the entire Board.

21 COORDINATOR COONCE: They were cc'd
22 to Board members. Okay.

23 CHAIRMAN HANDS: Yeah, on October
24 26th.

25 THE WITNESS: Would it be possible

1 to --

2 COORDINATOR COONCE: Are these
3 different than what you --

4 (Indiscernible cross talk; reporter
5 requests one speaker.)

6 COORDINATOR COONCE: Are these
7 different exhibits, Mr. Caputo, than what you
8 had previously had us post?

9 MR. CAPUTO: Yes, they are.

10 COORDINATOR COONCE: So you will not
11 be using the exhibits that are currently
12 posted on the website?

13 MR. CAPUTO: I may. I'm going to
14 start with the newer exhibits if that's -- if
15 that's okay.

16 COORDINATOR COONCE: Okay. Let me
17 pull up, see what I can.

18 MR. CAPRIO: Specifically D as in
19 delta.

20 COORDINATOR COONCE: D as in delta.
21 Okay. Give me a second to pull it up. All
22 right. I'm going back and forth between work
23 computer and home computer. So I'm sorry,
24 Mr. Chairman, and members, you're going to
25 have to give me a second to --

1 CHAIRMAN HANDS: I'll share my
2 screen.

3 COORDINATOR COONCE: Do you have it?
4 Oh, that's right, you would have received it,
5 too. Yes, you can do your share screen. That
6 would be great.

7 CHAIRMAN HANDS: Okay. Let me see
8 if I know how to do it. Let me see.

9 COORDINATOR COONCE: Although I may
10 be able to pull it up -- oh, wait, I think I
11 can get it now. Hold on.

12 CHAIRMAN HANDS: Thank you. I had
13 it a second ago. Sorry.

14 COORDINATOR COONCE: Excuse me. All
15 right. Hold on. Now I can pull it up. D.
16 Okay. Share screen. Here we go. All right.

17 Can everybody see it?

18 MR. CAPUTO: Thank you. Okay.
19 Thank you.

20 I'm just going to jump right into
21 the technical aspects of what I put together.

22 COORDINATOR COONCE: First we have
23 to label these. I would suggest -- let me go
24 back to the website here. I'm not really
25 certain what other -- do you want to go with

1 JC-A since this is the first one you're going
2 to be discussing?

3 CHAIRMAN HANDS: We already had it
4 listed as A-1. Why don't we go with A-1 or
5 something.

6 COORDINATOR COONCE: We can do that.
7 Okay. So, Mr. Caputo, if you're okay, we'll
8 call this Exhibit JC-A1.

9 MR. CAPUTO: JC-A1. Okay. Thank
10 you.

11 (Whereupon, exhibit is received and
12 marked JC-A1 in evidence.)

13 MR. CAPUTO: JC-A1. Okay. Thank
14 you. And I certify that these drawings are
15 done to scale.

16 The first page that you see is
17 simply the applicant's site plan. I've
18 included it for reference.

19 I'd like you to scroll down, please,
20 to the second page. If you could zoom in,
21 that might be helpful. There's a -- the --
22 the reason I'm presenting this is there's a
23 subtext -- there's been a subtext to this
24 discussion that -- where the applicant had
25 stated, first on September 8th, and then again

1 tonight a representative from the applicant
2 said things like the Township didn't -- didn't
3 give the opportunity -- didn't give them the
4 zoning that they requested. We've heard
5 about the often mentioned firehouse meeting in
6 2016. And then tonight they made similar
7 comments.

8 So what I've done is I've made the
9 calculation by -- let me step back here.

10 So the main difference between some
11 of the earlier applications that the applicant
12 has presented and their current application is
13 the density of the site -- of the residential
14 on the site.

15 And I looked at those articles and
16 some of the recordings of those -- those
17 previous meetings and discussion of the
18 Planning Board at the time. And at one point,
19 220 apartments were proposed for this site.
20 And I put together a study showing what the --
21 what 220 apartments and their associated
22 parking would need were they to be situated on
23 this site.

24 So here you see the applicant's site
25 plan on the left, transferred over at scale.

1 That is the 140-unit plan with 317 spaces. To
2 the right I've drawn 440 spaces, which is what
3 the -- using RSIS to calculate, roughly how
4 many spaces would be needed for that many
5 apartments. The 440 spaces would occupy
6 roughly half of the developable -- developable
7 site. Not only that, but the current floor
8 area proposed of approximately 173,656 square
9 feet of apartment area for 440 units would
10 then have increased to 254,000 square feet of
11 residential apartment area. That's an
12 increase of 46 percent.

13 The reason I give you these figures,
14 the -- that much square footage on a space
15 like this, speaking from someone who's laid
16 out similar projects in the past and has
17 worked on a master planning team with a large
18 AE firm, I don't see how that much space and
19 that much parking could have reasonably been
20 situated on this site using Type 5B
21 construction. I suspect that the applicant
22 would have had to pursue a different type of
23 construction method and definitely would have
24 been taller.

25 If I were approaching this type of

1 complex design, I would likely be forced to
2 consider some sort of structured parking for
3 creativity. And I don't believe that the full
4 restricted area could remain inaccessible.

5 So, in other words, maybe some of that space
6 would have had to have been used for parking.

7 The reason I present these figures
8 to you tonight is just to undermine the claim
9 that the only reason that the project cannot
10 be built in a manner which has higher quality
11 finishes, more complex rooflines, buildings
12 with balconies, and a variety of different
13 heights is the zoning that was given to them.
14 I don't believe that the site would
15 accommodate the density that was originally
16 proposed in 2016.

17 And I think the developer may not be
18 giving us the most -- the highest quality that
19 they could be because of that. I won't say
20 anything else that would -- my opinion.

21 Additionally -- Debra, could you
22 scroll to the next slide?

23 COORDINATOR COONCE: Uh-huh.

24 MR. CAPUTO: Thank you.

25 Early in testimony, this is a

1 different -- so to change gears a little bit,
2 I took the same plan and I highlighted the
3 area which the engineer has designated as
4 green space. So this -- the zoning permits 40
5 percent impervious coverage. The remaining 60
6 percent of the site, once you take away the
7 restricted area, is distributed as such. So
8 I've highlighted in green the areas in their
9 current site plan, so the developer's current
10 site plan, that are currently intended to be
11 green areas, so grassy areas; in other words,
12 fully pervious areas.

13 The only reason I did this is
14 because this indicates in a very clear way
15 just how much green space is available once
16 the restricted area is subtracted from the
17 equation.

18 Early -- early in testimony, the
19 question was asked of the applicant, how much
20 green space is being added to the site over
21 the current industrial warehouses? This
22 answers that question. This shows the 123,490
23 square feet and shows how it's divided up.

24 And I present this to you to show
25 that there's not much contiguous green space.

1 I presented a soccer field at scale to give
2 you a sense of how much room there is. A
3 soccer field is just shy of 2 acres. Figure
4 it's 1 acre per side if that helps you
5 visualize. So the largest green area is just
6 to the south of the tracks in a -- where the
7 developer has proposed a depressed area.

8 And it's -- it is fairly useful, but
9 when you see it in scale, you realize that --
10 I think the Board should ask whether this is
11 sufficient open space for 140 families.

12 And then the final slide, Debra, if
13 you could...

14 COORDINATOR COONCE: Uh-huh.

15 MR. CAPUTO: I just want to -- I
16 also presented the -- also at scale, this is
17 from the site investigation report that the
18 applicant presented. Each dot on here is
19 either a monitoring well or a soil boring. I
20 just wanted to point out that the location of
21 this future green area, the largest green area
22 on the site, I can't move the cursor, but it's
23 at the northeast -- yes, right in there. Also
24 corresponds to the location of the areas of
25 concern identified, Number 7, 7.1, 7.2, 7.3,

1 7.4. And areas of concern 12.3 and 12.4. I'm
2 not representing myself as an environmental
3 expert, but I do believe from what I've seen
4 that those areas were the location of a rail
5 spur and have a number of subsurface storage
6 tanks that exhibited contamination.

7 And I just wanted to point out to
8 the Board this is also the area of the site
9 that has the highest amount of fill. Excuse
10 me. I misspoke. The least amount of fill.
11 In other words, the most amount of cut. So in
12 most areas there's about 5 feet of excavation
13 at this point, plus whatever would be required
14 by the environmental cleanup. And I just
15 present that in order to portray what I
16 consider to be a questionable design decision
17 to locate that area so far below street level
18 and below the level of the railroad tracks.

19 Also, I'd like to shift over to
20 Exhibit E. So, Debra, this is the next one.

21 COORDINATOR COONCE: Okay.

22 MR. CAPUTO: My mic's on. If I may
23 continue the --

24 COORDINATOR COONCE: This we'll
25 label JC-A2.

1 (Whereupon, exhibit is received and
2 marked JC-A2 in evidence.)

3 MR. CAPUTO: Okay. So in Exhibit
4 A2, I have extracted some of the -- well, I'll
5 go through one by one.

6 So initially I wanted the Board to
7 consider this page from the 1990 master plan
8 in Millington Village, all of it. This was an
9 illustrative streetscape design plan that
10 is -- was presented and prepared as a sample.
11 This, of course, is -- this was prepared
12 before the Millington Bank building was
13 finished, I believe, and it doesn't represent
14 the most accurate building layout, but it's
15 illustrative to what was envisioned 30 years
16 ago in Millington.

17 Before I scroll down to this page, I
18 just -- I'd like to enter another exhibit.

19 This is -- Debra, this is an exhibit
20 that was previously submitted, so it's
21 actually on the website. It's listed as,
22 let's see, JC Exhibit -- or, excuse me,
23 Exhibit JC-A on the website, which is very
24 confusing.

25 COORDINATOR COONCE: Did that just

1 come up?

2 MR. CAPUTO: Yes, that's it. Thank
3 you.

4 Just to refresh everyone's memory, I
5 understand everyone here has been very close
6 to this process over the years and for that I
7 appreciate it. But I just wanted to put this
8 project in context and maybe address, you
9 know, how a planning -- a professional,
10 design professional, might look at the
11 surroundings.

12 (Whereupon, exhibit is received and
13 marked JC-A3 in evidence.)

14 MR. CAPUTO: And I'm also speaking
15 partially as a ten-year resident of this
16 Village with a vested interest.

17 So the first slide is the
18 applicant's site plan in context with the
19 surrounding lots. It's not very illustrative
20 here, but if you scroll to the second page,
21 please, I've marked the existing zoning from
22 our current zoning map. The Millington
23 Village zone has pretty strict requirements,
24 two stories with a 10-foot setback. That's
25 the entirety of the green. So that includes

1 all properties to the east and many to the
2 north. It's worth noting the properties
3 immediately to the north of the restricted
4 area are single-family residential, so those
5 aren't included here.

6 And then the office zone just
7 immediately to the south of the site, which is
8 the Barrett property, that's currently given a
9 two-story limit with a 50-foot setback. And
10 then we have -- we are all aware of the MUO
11 zone, the subject site.

12 If you could scroll to the next
13 slide, please.

14 There were discussions that were had
15 in front of this Board and, in a limited
16 fashion, at the Township Committee. How does
17 this site fit in with the surroundings? And
18 I'd like to just present for consideration the
19 manner by which the actual zoning was arrived
20 at. I don't -- I don't want to completely
21 contradict the Board's planner, but this is
22 just for consideration. It is very important,
23 I believe, to all of us, to the public, to
24 myself. At the time that the zone had a
25 relationship with its surroundings, that means

1 on Division and on Commerce Avenue or the
2 railroad tracks.

3 So that's -- this is the reasoning
4 for why the "not artful" zoning regulation was
5 implemented.

6 Can you scroll down again, please,
7 Debra?

8 This is -- I just want to be very
9 careful. This was not how the zoning was
10 written, although in a -- you know, without
11 the existence of the Fair Share plan or
12 contamination on the site, this is one
13 potential alternative. Again, this wasn't
14 done, but it's worth looking at.

15 In order to prevent the orphaning of
16 the site, the sites all the way to the east,
17 so there are -- just south of the railroad on
18 Division, on the east side, there are one,
19 two, three sites north of Meadowview, and then
20 there are one, two, three sites south of
21 Meadowview that have that two-story 10-foot
22 restriction.

23 Not all of those -- not all of those
24 sites actually take advantage of that. Some
25 are setbacks. Some are at the street. And

1 then we have the industrial-looking property
2 just south of the railroad, currently the
3 Nicholson Roofing property.

4 However, it's a fundamental concept
5 that both sides of the street should relate to
6 each other and that would -- that would allow
7 the greatest opportunity for development to
8 complement what's across the street from it.

9 Could you scroll down again, please?

10 COORDINATOR COONCE: Sure.

11 Absolutely.

12 MR. CAPUTO: I'd just also like to
13 address something that we see. So let me see
14 here. I'm trying to work with two different
15 exhibits here. I will talk about this slide.
16 So the blue circles in my diagram represent
17 the core nexus of this Village. We have a
18 current plaza next to our train station with
19 some large deciduous trees, lots of shade.

20 I'm not going to hold it against the
21 applicant, but there was previous talk about
22 an accompanying plaza right at the corner. So
23 where my blue, my lower blue dot is,
24 there's -- there's a pretty good -- there was
25 a -- there's a -- what -- what I would call a

1 continuation of the existing plaza. And the
2 previous plan, like I said, proposed a green
3 area with a flagpole, something to draw
4 pedestrians, of which there will hopefully now
5 be many more of, across the tracks to the
6 south and bring that village feel across the
7 tracks.

8 Can you scroll down again, please,
9 Debra?

10 MR. REGAN: Mr. Chairman, before we
11 proceed, I know Mr. Caputo was sworn in as an
12 architect. Most of this testimony in the last
13 ten minutes has been planning testimony.

14 CHAIRMAN HANDS: That's a fair
15 point, actually.

16 Jon, can you just pick it up a bit
17 more on the architectural aspects? Thank you.

18 MR. CAPUTO: Okay. Okay. Sure.
19 I -- we can -- we can actually skip over to a
20 different exhibit. I think if we -- if we
21 return to the other exhibit that I presented.

22 COORDINATOR COONCE: This one?

23 MR. CAPUTO: Yes. Okay.

24 COORDINATOR COONCE: Okay.

25 MR. CAPUTO: If you can scroll down,

1 please.

2 Okay. I'll talk about the
3 architectural. I don't -- I don't feel that
4 architecture is strictly limited to what
5 buildings look like. I just wanted to present
6 that the -- there's a clear opportunity here
7 for aspects of streetscape improvement along
8 Division.

9 MR. FOURNIADIS: Mr. Chairman, my
10 attorney objected. This gentleman is giving
11 planning testimony when he's already hired a
12 planner to come and speak at the next
13 meeting.

14 Why can't you force him to stick to
15 architectural since that's his area of
16 expertise? I mean, how long do we have to
17 listen to this? He was also giving
18 environmental testimony on stuff that we spent
19 two meetings discussing. So is he an
20 architect? Is he an environmentalist? Is he
21 a planner? How many licenses does he hold?
22 It's really not fair. Our professionals stuck
23 to their areas of expertise. He should do the
24 same.

25 CHAIRMAN HANDS: Jon, can we have

1 your comments, please? If not, we'll end the
2 testimony.

3 MR. CAPUTO: Well, if the Board
4 feels that streetscape improvements and scale
5 of -- and scale of Village elements aren't the
6 purview of architecture, then I don't have
7 anything to add, so --

8 CHAIRMAN HANDS: Let me ask you
9 this: How many more slides do you have? Is
10 this your last slide?

11 MR. CAPUTO: I wanted to show -- I
12 would like to show one more slide, Mr. Hands.

13 CHAIRMAN HANDS: If you'd like to
14 switch to the next one, let's see if we can --

15 MR. CAPUTO: Yes, go ahead.

16 COORDINATOR COONCE: This is the
17 slide?

18 MR. CAPUTO: Excuse me?

19 COORDINATOR COONCE: Is this it?

20 MR. CAPUTO: Yes.

21 COORDINATOR COONCE: Okay.

22 MR. CAPUTO: Yes. I'd just like to
23 point out that the Village of Millington
24 currently has a need for more green space.

25 MR. FOURNIADIS: I don't understand.

1 If he wants to put a slide on the site? Is
2 that what he wants? I don't understand what's
3 going on here.

4 BOARD MEMBER FALVEY: Can I ask a
5 question?

6 CHAIRMAN HANDS: Jon, go ahead,
7 please.

8 BOARD MEMBER FALVEY: Mr. Caputo,
9 just curious, is your testimony here, do you
10 just disagree with the design, that you don't
11 like it, or is there something, like,
12 fundamentally wrong? It doesn't comply with
13 the ordinance? It's somehow illegal? Other
14 than just a difference -- a taste, is there
15 something about your testimony related to,
16 like, how -- I know you mentioned something
17 about the height of the buildings.

18 Do you have anything like that?

19 MR. CAPUTO: I'm not -- I'm not here
20 testifying about the height of the buildings.
21 If the Board would like me to testify about
22 the appearance of the buildings, I could do
23 that at a later point. But I was mostly
24 testifying about the interaction of the
25 project with the Village. So I think I've

1 made my point. But I have nothing further.

2 BOARD MEMBER FALVEY: Let's move on.

3 CHAIRMAN HANDS: Thank you.

4 Does anybody have any questions of
5 Mr. Caputo?

6 Okay. Hearing none.

7 Okay. Any other testimony, Deb? I
8 don't see any hands raised.

9 COORDINATOR COONCE: Nor do I.

10 CHAIRMAN HANDS: Okay. So it's
11 10:15. I think we're left now with public
12 comments.

13 COORDINATOR COONCE: There will
14 be -- well, Mr. Kaufman, I understand, wants
15 to continue testimony at the next --

16 CHAIRMAN HANDS: Oh, he does?

17 MR. FOURNIADIS: So can we take it,
18 Mr. Chairman, that there's no further public
19 comment other than Mr. Kaufman and the planner
20 he's bringing since there's nobody else here
21 tonight raising their hands?

22 COORDINATOR COONCE: No, there's
23 now -- now if you're going into comments, we
24 have people raising hands.

25 CHAIRMAN HANDS: We would normally

1 leave it to three minutes --

2 COORDINATOR COONCE: Correct.

3 CHAIRMAN HANDS: -- at that point if
4 that's okay. So that would be, I expect, a
5 faster process than the testimony we just were
6 listening to and Mr. Kaufman.

7 But just go back to your other
8 point, who is left to testify? You said Mr.
9 Kaufman potentially.

10 COORDINATOR COONCE: Mr. Kaufman had
11 requested to testify at the next meeting.
12 That's up to the Board and the applicant.

13 MS. MAZIARZ: Well, Mr. Kaufman had
14 requested that his expert that he's hiring
15 testify. So the Board should make a decision
16 at this point to close testimony except for
17 that one expert that Mr. Kaufman is retaining
18 to testify because that is the only member of
19 the public that has indicated any interest in
20 continuing to testify. I think it's only fair
21 to the applicant and to the Board to close
22 this portion since there is no member of the
23 public that is looking to testify this
24 evening, having been given enough opportunity.

25 CHAIRMAN HANDS: And just so I'm

1 clear, Mr. Kaufman you're saying is having a
2 planner. I heard somebody else maybe having a
3 planner. Is it two planners or is it just the
4 one?

5 COORDINATOR COONCE: Only one.

6 MS. MAZIARZ: I am only aware of
7 one.

8 CHAIRMAN HANDS: Okay. How do we
9 want to handle that planner testimony?

10 COORDINATOR COONCE: How are we
11 going to handle it?

12 CHAIRMAN HANDS: Uh-huh. Are we
13 going to permit it? Is that something we hold
14 for the next meeting?

15 MAYOR RAE: I think we have to,
16 right? They're not here.

17 MS. MAZIARZ: We don't have a choice
18 because he isn't here. If the Board carries
19 this hearing to its next meeting, which is
20 November 10th -- Debra, is that right?

21 COORDINATOR COONCE: Yes.

22 MS. MAZIARZ: -- till November 10th,
23 I believe that the applicant will have to
24 grant an extension at least till November 10th
25 and then the Board can limit the next hearing

1 to that one planner's testimony because that
2 is the only -- the only member of the public
3 that has indicated that they still wish to
4 testify.

5 Because at this point, it's 10:15 in
6 the evening. Members of the public who would
7 have wanted to have testified should have been
8 here this evening so further testimony should
9 be foreclosed at this point because they did
10 not appear at this meeting.

11 So the only testimony would be that
12 of the objector's planner, I suppose that's
13 what it is, the objector's planner. The Board
14 would have the opportunity to ask questions.
15 The applicant would have the opportunity to
16 either ask questions or rebut. And then we
17 would move into public comment and public
18 comment will be limited, as the Chairman
19 indicated, to three minutes per person.

20 BOARD MEMBER PFEIL: Do we need a
21 resolution to accomplish that?

22 MS. MAZIARZ: I'm sorry?

23 BOARD MEMBER PFEIL: Do we need a
24 resolution to accomplish that?

25 MS. MAZIARZ: You don't need a

1 resolution, but you do need an extension in
2 time for the applicant.

3 CHAIRMAN HANDS: Frank --

4 BOARD MEMBER PFEIL: I mean in terms
5 of limiting any -- any other public testimony.

6 MS. MAZIARZ: I believe that that is
7 a Board policy, although if you would like to
8 make a motion and second and make it official,
9 I am not adverse to that, Mr. Pfeil.

10 MAYOR RAE: So moved.

11 BOARD MEMBER PFEIL: I'd second
12 that.

13 VICE CHAIRMAN JONES: Hold on. Can
14 I understand the motion before we cast any
15 votes?

16 MS. MAZIARZ: The motion is to limit
17 public comment, because the public has had an
18 opportunity already to ask questions and to
19 provide testimony. So this motion is only to
20 limit public comment to three minutes per
21 person.

22 MAYOR RAE: And also to reserve
23 testimony, right, to the --

24 VICE CHAIRMAN JONES: This is
25 limiting testimony to Mr. Kaufman and his

1 expert planner?

2 MS. MAZIARZ: Right. Right. That
3 there will be no more testimony from the
4 public after this hearing other than
5 Mr. Kaufman's planner because Mr. Kaufman
6 already asked for that concession from the
7 applicant and from the Board.

8 VICE CHAIRMAN JONES: That's what I
9 needed to know.

10 CHAIRMAN HANDS: Thank you.

11 BOARD MEMBER PFEIL: Okay. So we
12 have a motion and a second, right?

13 MS. MAZIARZ: Yes.

14 COORDINATOR COONCE: So the motion
15 was made by Mr. Pfeil, correct?

16 BOARD MEMBER PFEIL: I think Mayor
17 Rae made it. I seconded it.

18 COORDINATOR COONCE: Oh, Mayor Rae
19 made it? And second was Mr. Pfeil?

20 BOARD MEMBER PFEIL: Correct.

21 MS. MAZIARZ: Yes.

22 COORDINATOR COONCE: Okay. So I
23 will do a roll call vote. Mayor Rae?

24 MAYOR RAE: Yes.

25 COORDINATOR COONCE: Mr. Pfeil?

1 BOARD MEMBER PFEIL: Yes.

2 COORDINATOR COONCE: Committeeman

3 Verlezza? I'll take that as a yes. Okay.

4 Mr. Falvey?

5 BOARD MEMBER FALVEY: Yes.

6 COORDINATOR COONCE: Mr. Malinousky?

7 BOARD MEMBER MALINOUSKY: Yes.

8 COORDINATOR COONCE: Mr. Sandow?

9 BOARD MEMBER SANDOW: Yes.

10 COORDINATOR COONCE: Vice Chairman

11 Jones?

12 VICE CHAIRMAN JONES: Yes.

13 COORDINATOR COONCE: Chairman Hands?

14 CHAIRMAN HANDS: Yes. Thank you.

15 COORDINATOR COONCE: Motion carries.

16 Okay.

17 CHAIRMAN HANDS: And, Frank, you're

18 comfortable with that, then, for the next

19 meeting?

20 MR. REGAN: Yes, we're fine.

21 MR. FOURNIADIS: Yeah, we're fine.

22 I'm sorry, we're fine with that. But since

23 you have members of the public that would like

24 to speak tonight and you're limiting them to

25 three minutes and we have ten minutes left

1 tonight, why can't we let at least two members
2 of the public speak tonight and get them out
3 of the way?

4 VICE CHAIRMAN JONES: Do we have any
5 other Planning Board business that needs to be
6 done?

7 COORDINATOR COONCE: Not that I'm
8 aware of.

9 CHAIRMAN HANDS: Well, committee
10 reports, anything to report? Nothing. Okay.
11 Let's take the last two hands, then. Three
12 minutes for, I guess, Chuck and Pam for public
13 comment.

14 COORDINATOR COONCE: Did you want me
15 to set a timer, Mr. Chairman, or would you
16 like to do that?

17 CHAIRMAN HANDS: You can do that if
18 you wish.

19 COORDINATOR COONCE: All right.
20 Mr. Arentowicz.

21 MR. ARENTOWICZ: I had you, Debra
22 Coonce, put up two documents today. A third
23 document was put up three weeks ago or a month
24 ago and I wanted to testify. You voted that I
25 can't testify. What are we at -- what

1 Communist country have I entered into?

2 COORDINATOR COONCE: I'm going to
3 let Jolanta take that one.

4 MS. MAZIARZ: Wait. Hold on. Well,
5 we asked for more testimony. Now, if --

6 MR. ARENTOWICZ: I had my hand
7 raised, Jolanta.

8 MS. MAZIARZ: Okay. Well, then
9 you're still here today. You can still
10 testify today --

11 MR. ARENTOWICZ: All right. Great.

12 Debra Coonce, could you put up the
13 pictures or photos that I want to submit into
14 testimony?

15 COORDINATOR COONCE: Certainly.

16 MR. ARENTOWICZ: Pick whatever you
17 want.

18 COORDINATOR COONCE: Okay. Hold on
19 a minute.

20 MS. MAZIARZ: Okay. Mr. --

21 MR. ARENTOWICZ: I'll comment on any
22 three.

23 MS. MAZIARZ: Okay. Mr. Arentowicz,
24 I need to swear you in.

25 MR. ARENTOWICZ: Okay.

1 C H A R L E S A R E N T O W I C Z,
2 having been duly sworn, was examined and
3 testified as follows:

4 MR. ARENTOWICZ: I do.

5 MS. MAZIARZ: Thank you. And just
6 some housekeeping. We have to keep it to
7 whatever is relevant to the application.

8 MR. ARENTOWICZ: Correct.

9 COORDINATOR COONCE: The first one
10 is labeled CA-1.

11 MR. ARENTOWICZ: Okay. Let me get
12 my notes.

13 At the public hearing on June 23rd,
14 by the applicant, Prism Millington, LLC,
15 expert witness Robert Fourniadis requested
16 photos of any broken asphalt keeping the
17 asbestos contained in the earth below of the
18 developed area at the Tifa site.

19 Please see the first attached photo
20 taken by me on June 27th, 2002 (sic) of the
21 broken asphalt on this site. This photo that
22 you're now looking at is asphalt not
23 containing the asbestos below the surface.

24 I certify that I personally took
25 these photos on Saturday, June 27th, at 50

1 Division Avenue, Millington, New Jersey, with
2 a Nikon Z6, to enter these photos into the
3 Planning Board hearing of record.

4 If you go to the second photo,
5 please. This is broken asphalt that's
6 releasing asbestos into the air.

7 Next photo, please, Debra.

8 MR. FOURNIADIS: I'm going to ask my
9 attorney to object to that. He's not an
10 environmentalist. How do you know asbestos is
11 being released into the air?

12 MR. ARENTOWICZ: No, I'm a
13 photographer. A photographer.

14 BOARD MEMBER PFEIL: Let's end this.
15 This is ridiculous.

16 MR. FOURNIADIS: There's no evidence
17 that asbestos is being released into the air.
18 Our LSRP examined the site after those
19 pictures --

20 MR. ARENTOWICZ: He never visited
21 the site.

22 (Indiscernible cross talk; reporter
23 requests one speaker.)

24 MR. FOURNIADIS: Well, he should be
25 qualified as an environmental expert before

1 he's allowed to give such inflammatory
2 testimony.

3 MS. MAZIARZ: I agree,
4 Mr. Fourniadis.

5 Mr. Arentowicz, when you began your
6 testimony, I asked you to keep it relevant and
7 also keep it to your area of expertise. If
8 you are not qualified as an environmentalist
9 or an environmental engineer, please don't
10 testify as one.

11 COORDINATOR COONCE: Mr. Arentowicz,
12 you need to unmute yourself again.

13 MR. ARENTOWICZ: Mr. Fourniadis said
14 if there's broken asphalt, please let me know.
15 I've let him know.

16 Let me -- in my conversations from
17 2013 with District 2 of the EPA, they
18 indicated to me in an e-mail, which I will
19 give you, which I am in -- as I said earlier,
20 in the Hamptons, and I don't have access to my
21 Knowledge Management Center that's located at
22 605 Heritage Road, Millington, the e-mail from
23 the District 2 EPA in New York stated
24 something to such, that if any of the pavement
25 is broken or released, they will need --

1 the developer will need to --

2 MR. REGAN: I object.

3 MR. ARENTOWICZ: No, don't object.

4 Let me finish.

5 MR. REGAN: You're referring to a
6 document that nobody can see --

7 MR. ARENTOWICZ: Well, I don't have
8 it. I will give it to you when I get home.

9 MR. REGAN: Then you have no right
10 to testify about it.

11 MR. ARENTOWICZ: I'm going to
12 testify and return it to you.

13 MR. REGAN: You have no right --

14 MR. ARENTOWICZ: Don't call me a
15 liar.

16 MR. FOURNIADIS: The EPA has been
17 out to the site. They've gotten a clean bill
18 of health and he is --

19 MR. ARENTOWICZ: No. Let me back
20 up.

21 MR. FOURNIADIS: -- again testifying
22 to something that is not in evidence --

23 (Indiscernible cross talk; reporter
24 requests one speaker.)

25 BOARD MEMBER PFEIL: Mr. Chairman,

1 let's end this nonsense.

2 COORDINATOR COONCE: Mr. Fourniadis,
3 I muted Mr. Arentowicz. So go ahead, continue
4 with your statement.

5 MR. FOURNIADIS: I'm asking you to
6 stop this testimony. We spent two hour -- two
7 meetings with our LSRP. We went out and we
8 looked at the site with our LSRP and three
9 other environmental engineers, found the areas
10 that were exposed, and we filled them with
11 millings. That's my sworn testimony.

12 As far as the EPA is concerned, they
13 recently conducted their annual five-year
14 study and we got a clean bill of health.
15 There's a few things related to one of the
16 wells that we addressed.

17 So Mr. Arentowicz is supposed to be
18 testifying as to this application, not
19 asbestos being released into the air and
20 something that the DEP or the EPA said seven
21 years ago that isn't in evidence and wouldn't
22 be relevant even if it was.

23 So I'm asking the Chairman to stop
24 this line of testimony and stop wasting
25 everybody's time.

1 CHAIRMAN HANDS: Thank you.

2 Jolanta, I would agree with Bob there. The
3 photo doesn't justify much to me.

4 But, Jolanta, do you have any
5 comments on that just to make sure that we
6 appropriately dismiss the testimony?

7 MS. MAZIARZ: Yes, I agree. This is
8 not testimony that would be relevant for the
9 Board's consideration in a site plan
10 application. The Board has no jurisdiction
11 over any part of any environmental issues as
12 they are on this property, whether -- whether
13 it be the Superfund site or anything else that
14 would be under either the DEP's jurisdiction
15 or the EPA's jurisdiction.

16 So testimony in that regard is
17 simply, as Mr. Fourniadis has already stated,
18 a waste of time.

19 So if there's nothing further from
20 Mr. Arentowicz that doesn't have anything to
21 do with the contamination that the Board
22 doesn't have jurisdiction over anyway, then
23 the testimony -- you know, then this
24 testimony, this line of testimony at least,
25 should be over.

1 VICE CHAIRMAN JONES: I'm sorry,
2 Jolanta. In order for it to be factual
3 testimony, Mr. Arentowicz would be providing a
4 report that shows that contaminants are
5 leaking or exposed or -- to the environment.
6 Is that a fair assessment? Which we have no
7 evidence of any report that is --

8 MS. MAZIARZ: Well, even if such a
9 report existed, this is not the correct forum
10 to present such a report. If Mr. Arentowicz
11 had any issues with regard to anything
12 leaching on the site, there are agencies that
13 oversee that and that's not the Long Hill
14 Township Planning Board.

15 So if there is any issue, if any
16 resident has any issue with any environmental
17 contamination, you have to take it to the DEP,
18 you have to take it to the EPA, to the
19 regulatory body that's in charge, not the Long
20 Hill Township Planning Board. Unfortunately,
21 the Planning Board, you know, for better or
22 worse, cannot consider --

23 VICE CHAIRMAN JONES: Understood.

24 MS. MAZIARZ: -- those things when
25 they consider a site plan application. The

1 only thing that you consider is that which --
2 those rules that are in your site plan
3 ordinance. That's it. Nothing about the
4 contamination.

5 VICE CHAIRMAN JONES: Thank you.

6 And, Mr. Chairman, I'd like to note
7 the time is 10:29.

8 CHAIRMAN HANDS: I appreciate that.
9 I'm just going to go to Pam.

10 BOARD MEMBER PFEIL: How about a
11 motion to adjourn?

12 CHAIRMAN HANDS: No, wait, wait.
13 Please wait.

14 BOARD MEMBER FALVEY: I second the
15 motion.

16 CHAIRMAN HANDS: Please wait. I
17 just want to just check with Pam. She had her
18 hand up. I want to make sure Pam's comment
19 is -- I just want to make sure it's not a
20 testimonial point --

21 VICE CHAIRMAN JONES: Carry it in
22 case --

23 MAYOR RAE: We're going to carry
24 this anyway --

25 MR. ARENTOWICZ: Wait, wait, wait.

1 I've got other pictures.

2 MAYOR RAE: You know, I think it's
3 rapidly becoming a three-ring circus, so maybe
4 we should adjourn.

5 BOARD MEMBER PFEIL: Let's adjourn.
6 This is nonsense.

7 MAYOR RAE: We have a motion, right,
8 and it's been seconded.

9 BOARD MEMBER PFEIL: It's been
10 seconded. Let's have a vote.

11 COORDINATOR COONCE: All in favor to
12 adjourn the meeting?

13 (Whereupon, a voice vote was taken;
14 chorus of "ayes" heard.)

15 COORDINATOR COONCE: Any opposed?
16 Meeting adjourned.

17 CHAIRMAN HANDS: Thank you.

18 MR. FOURNIADIS: Hold on. Hold on.
19 I hate to be a stickler. I don't think we
20 gave an extension.

21 MS. MAZIARZ: Exactly.

22 MR. REGAN: We agree. We agree.

23 MR. FOURNIADIS: We agree? Okay.

24 COORDINATOR COONCE: You agreed.

25 CHAIRMAN HANDS: You did say it.

1 MR. REGAN: I'll send a letter out
2 tomorrow.

3 COORDINATOR COONCE: Thank you,
4 Frank.

5 MR. FOURNIADIS: Good night,
6 everybody.

7 (Whereupon, the hearing on this
8 application was adjourned at 10:31 p.m. to
9 Tuesday, November 10, 2020, at 7:30 p.m.)

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I, BRIDGET LOMBARDOZZI, Notary Public
and Certified Shorthand Reporter of the State
of New Jersey, do hereby certify that the
foregoing is a true and accurate transcript of
the testimony as taken stenographically by and
before me at the time, place and the date
hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither
a relative nor employee nor attorney nor
counsel of any of the parties to this action,
and that I am neither a relative nor employee
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A				
A-1 109:4,4	act 48:19,21	aesthetically	agreements 31:8	33:3 51:18
a.m 106:5	action 71:6	20:19 25:20	agrees 22:10	55:1,5 62:12
A2 116:4	144:12,15	34:4	ahead 18:24	102:11,12
ability 47:21	active 105:13	aesthetics 82:13	92:3 93:25	125:4
91:19	actual 43:5 66:3	affect 11:6 91:19	95:22 98:4	anything's
able 29:17,20	118:19	affidavit 91:4,18	123:15 124:6	70:16
30:15,15 35:22	ADA 100:7	92:8	138:3	anyway 14:5
61:23 62:6	add 52:18 70:10	affordable 9:6	ahold 81:16	139:22 141:24
68:6 74:19,23	123:7	11:8 19:15	air 135:6,11,17	apartment
100:15 101:12	added 113:20	22:23 24:21	138:19	51:14 111:9,11
108:10	adding 34:25	25:2,4,7 29:9	Alan 1:16 33:10	apartments
Absent 15:25	additional 72:17	30:16 31:12	45:18	110:19,21
absolute 72:19	Additionally	33:20,23 47:22	Alberto 2:9	111:5
77:18	112:21	72:13,17,20	68:20	apologize
absolutely 88:10	address 7:21	73:4,11 74:20	alike 21:20	102:23
120:11	13:14,15 23:20	74:23,24 75:2	68:23 69:3	appealing 52:17
abuts 12:11	50:21 61:20	75:6,10,24	all-inclusionary	appear 68:11
accept 105:17	105:4 117:8	77:10	24:19	128:10
acceptable	120:13	affording 72:17	alleges 9:15	appearance 19:6
57:13 99:10	addressed 101:3	agencies 140:12	alleviates 63:24	20:22 21:11
access 16:13	138:16	agenda 4:1 71:4	allow 13:13	124:22
28:5 96:7	adequate 101:22	ago 32:14 34:20	49:19 82:2	apples 77:11
100:16,17	adjacent 47:3	44:20 84:20	99:2 120:6	applicant 1:22
101:2,7,14	adjourn 141:11	85:15 87:20	allowed 136:1	4:25 5:1,10,11
136:20	142:4,5,12	89:9,13,16,20	allowing 31:16	20:21 23:20
accessed 12:13	adjourned	96:24 101:5	32:7	25:12 34:14
accessibility	142:16 143:8	108:13 116:16	allows 9:14	35:5,7,18 36:2
101:22	adjustment	132:23,24	47:24	36:19 37:3,15
accessible 100:7	74:17 76:4	138:21	alterations	37:18 44:9,19
accommodate	86:17	agree 8:13 22:6	64:20	45:4 50:16,24
72:16 112:15	adjustments	40:25 43:25	altering 57:19	56:17 57:4,6
accommodating	73:25	46:2 51:9	alternate 53:12	59:19 60:11
65:19	admit 12:15	54:14 56:23	68:21	65:4 87:7 96:2
accompanying	69:6	59:12 61:14,24	alternative	96:19 101:1
120:22	adopt 10:7	66:21 68:19	57:18 119:13	103:15 109:24
accomplish	11:11,14	70:6 71:5	ambiguity 18:10	110:1,11
128:21,24	adopted 8:23	90:15 93:9,21	ambition 82:9	111:21 113:19
accomplishes	9:25 11:25	97:2 136:3	amenable 57:17	114:18 120:21
20:9	adoption 10:11	139:2,7 142:22	amount 115:9	126:12,21
accord 89:1	10:15	142:22,23	115:10,11	127:23 128:15
accurate 29:14	adoptions 10:25	agreed 92:15	analysis 37:24	129:2 130:7
42:22 116:14	advance 70:6	98:25 142:24	64:4	134:14
144:6	advantage 32:10	agreeing 70:5	ANGELA 2:9	applicant's 50:3
accurately 29:5	119:24	agreement 8:24	annual 138:13	100:19 109:17
achieve 43:19	adverse 129:9	9:3,7,9,10	answering 90:7	110:24 117:18
acre 114:4	advice 67:18	11:14 19:17	92:13	application 1:5
acres 73:16,17	advisory 23:24	23:8 31:17	answers 62:12	4:15,19 12:20
73:18,18 114:3	AE 111:18	72:23 75:17	113:22	23:4 24:9
	aesthetic 45:8	77:22	anybody 26:24	25:17 48:15

50:5 51:10	architectural	98:23 99:21	assist 47:21	39:11 44:21,23
53:3 56:25	16:6 21:10	101:4,18,24	associated	45:10 51:22
61:8 86:5,18	32:3 40:14	102:4,8 132:20	110:21	55:1 58:13
87:6,7 91:20	46:9 51:24	132:21 133:6	assume 47:5	60:2,5,12 62:3
99:18 110:12	53:5 54:8 57:4	133:11,16,21	103:1	63:7 65:5
134:7 138:18	58:4 59:9,21	133:23,25	assumed 101:6	68:22 70:20
139:10 140:25	67:17 121:17	134:4,8,11	assuming 49:10	72:3 78:8,8
143:8	122:3,15	135:12,20	101:13	83:14 84:1
applications	architecturally	136:5,11,13	astounded 98:5	87:3,14,16
10:10 21:23	64:25	137:3,7,11,14	attached 134:19	88:19 94:17
110:11	architecturals	137:19 138:3	attempt 32:6	95:4 107:22
applies 15:15	50:22 57:5	138:17 139:20	attention 23:16	108:24 110:9
21:14 22:6	architecture	140:3,10	23:18 86:25	126:7 137:19
apply 21:11	20:9 21:18	141:25	attorney 1:20	background
22:17 23:13	22:10 24:13	argue 15:23	6:4 79:15,23	8:16 104:25
appointed 7:19	25:12 41:17	argued 14:3	79:25 80:3,15	105:5
appreciate	105:6 122:4	arguing 14:15	80:20 81:2	bad 45:16
23:16 26:1,3	123:6	argument 17:15	84:21,25 86:20	balance 43:24
35:18 54:15,21	area 35:9 40:20	41:6	87:24 89:8,12	59:15
63:12 76:11	100:3,17 111:8	arrived 118:19	122:10 135:9	balancing 48:19
77:14 102:7	111:9,11 112:4	artful 119:4	144:11,14	48:21
117:7 141:8	113:3,7,16	artfully 11:24	Attorneys 1:22	balconies 112:12
appreciation	114:5,7,21,21	articles 110:15	attract 74:23	Bank 116:12
54:25	115:8,17 118:4	articulate 63:14	atypical 34:7,8	barracks 55:23
appreciative	121:3 122:15	articulated 29:6	AUDIENCE 3:8	56:6,7 62:21
54:24	134:18 136:7	60:1	available 75:9	barracks-like
approach 56:13	areas 16:25 17:8	articulation	113:15	52:9
approaching	17:13 24:15	48:9	Avenue 1:6	Barrett 118:8
111:25	94:22 100:7	asbestos 134:17	13:21 15:13	barriers 24:21
appropriate	113:8,11,11,12	134:23 135:6	16:23 18:6	based 8:3 19:3
4:16 49:18	114:24 115:1,4	135:10,17	75:18,24 94:8	49:1 50:4 73:3
50:20 62:6,8	115:12 122:23	138:19	119:1 135:1	84:18,19 89:2
69:16 87:11	138:9	aside 51:5 73:9	avoid 9:21	basically 26:21
appropriately	Arentowicz 3:10	75:2	avoided 25:3	62:14
100:23 139:6	71:19,20,22	asked 5:19 6:5	awake 98:9,11	becoming 142:3
approval 54:7	78:11,14,18	46:7 49:25	98:12,18	began 136:5
56:24 60:7,8	81:8,9,9,18	113:19 130:6	aware 7:16 8:22	beginning 6:14
approve 56:25	84:2,4,5,8 85:2	133:5 136:6	12:3 27:3	52:4 91:14
approved 31:5	85:3,14 86:2,9	asking 138:5,23	74:11 92:11	behalf 50:16
99:10	86:12,19,21	aspects 8:7,8	118:10 127:6	80:9,12
approximately	87:19 88:4,7	108:21 121:17	132:8	beholden 64:14
111:8	88:10,12,16,25	122:7	ayes 142:14	believe 6:13
architect 5:25	89:5,8,12,14	asphalt 134:16		20:10 29:5
43:18 52:14	89:19 90:1,5,8	134:21,22	B	33:8 79:7,17
67:18 70:2	90:12,15,18,21	135:5 136:14	B 6:19	84:12 85:5
104:8 105:17	90:24 92:2,4	asserted 96:20	bachelor 105:5	88:15 94:7
121:12 122:20	92:10,21 93:3	assessment	back 4:1 18:12	96:20 99:16
architects 68:20	93:5,15 97:21	140:6	26:16 34:19	100:24,25
104:6	97:25 98:1,3,5	assigned 16:7	36:13,23 37:13	101:2 106:16

112:3,14 115:3 116:13 118:23 127:23 129:6 believes 14:16 beneficial 71:3 benefit 19:10 104:24 Benning 56:4 best 9:20 36:11 67:18 better 44:22 59:6,11,24 64:11 66:16 85:24 99:14 140:21 beyond 12:12 18:7 big 26:17 bigger 14:13 bill 5:5 69:18 84:19 98:15 137:17 138:14 bit 26:3 29:23 34:25 36:6 42:12 44:4 54:19,23 55:15 64:23 75:4 77:1 113:1 121:16 blessed 101:8,12 block 19:19 Blocks 1:7 blue 53:11,13 62:15 120:16 120:23,23 board 1:2,12,20 2:2,5 3:2 4:8 5:18,19,22 6:5 7:18,19,20,23 8:9,11,18,19 9:23 10:1,4,7 13:4 18:25 19:4,6,10 20:7 20:20,22 22:10 23:19 24:10,12 24:17 25:11,15 25:17,19,22 26:19 27:2,10 28:22 30:25	31:20,23 33:11 34:2,6,9,16 35:4,15 37:16 38:19,23 39:12 39:24 40:16 41:16 42:17 43:2,9,14,24 46:2,5 48:13 48:22 50:5,8,9 50:18 54:25 55:14 56:13,14 56:24 57:2,13 57:14,15 58:13 58:13,18 59:1 59:10,16,23 60:3,5,12,14 60:22 61:2,4,6 61:25 65:5,20 65:23 67:14 68:7 69:8 74:2 77:25 79:3,21 81:11,17 82:12 83:1,18 84:22 85:9,12,13,25 86:7,17 87:8 87:11 88:21 90:2 91:6,13 93:2,7,12,15 93:21 96:24 99:13 101:19 102:19,21 104:8,11,24 106:7,11,17,20 106:22 110:18 114:10 115:8 116:6 118:15 123:3 124:4,8 124:21 125:2 126:12,15,21 127:18,25 128:13,20,23 129:4,7,11 130:7,11,16,20 131:1,5,7,9 132:5 135:3,14 137:25 139:10 139:21 140:14 140:20,21 141:10,14	142:5,9 Board's 5:13 8:17 10:8 19:13 20:1 23:15,18 57:1 71:12 118:21 139:9 Boards 60:6 Bob 49:12,19,22 50:21 51:1 55:3 65:25 67:21 69:11,25 139:2 body 140:19 book 53:19 books 12:19 boring 114:19 born 82:4 Borough 99:13 bottom 32:8 42:4 boundaries 17:9 boundary 13:21 13:23,25 18:14 30:5,6 94:23 94:24 95:1 boxes 92:12 boxiness 35:1 break 42:13 81:13 83:14 breakdown 73:16 breaking 21:4 Brendan 1:14 92:21 93:3 98:17 brick 52:23 53:10 55:19 62:18,19,20,23 69:2 Bridget 45:22 144:3,17 bring 9:14 21:8 32:17,24 44:21 45:10 121:6 bringing 23:15 23:17 91:10 125:20 broken 134:16	134:21 135:5 136:14,25 brought 5:21 44:22 buffer 18:18 buffering 18:17 build 43:21 48:1 66:22 74:24 builder 39:10 82:12,16 builder's 9:12 9:13,21 10:13 10:17 82:15 building 12:8,22 12:24 13:17,19 14:6 15:3,4 16:5,9,10,14 17:2,9,20,21 17:23 18:3,7 22:16 27:6 28:4 30:4 35:20 41:18 42:3 43:8,10 45:6 47:15,24 48:1,10 56:2 57:20 63:24 65:11 66:6,15 68:6,18,23 69:3,5 82:19 82:23 89:22 90:10 91:10 92:7 94:19 95:3,20 96:5 98:22 99:5,8 100:5,8,10,21 101:9,23 116:12,14 building's 16:11 20:5 buildings 12:7 12:13,22 13:8 13:20,24 14:3 14:6,7,16,19 15:13,18 16:24 17:16,20 18:11 18:16,19 19:9 19:19,20,24 20:23 22:17,19 26:10,11,22	29:17,25 30:13 30:20,21,22 32:7,8,9,19,19 32:22 35:21 36:1 37:6 40:2 40:7,19 41:21 42:7 46:20 50:10,23 51:15 52:16 53:13,14 53:18 54:3,11 54:13 55:18,19 57:10 58:1 62:23 66:10,22 68:11,13 94:3 94:4,22 96:7 99:2 112:11 122:5 124:17 124:20,22 buildings' 47:11 built 19:16 25:4 44:16 63:4 112:10 bulk 10:2 19:12 19:12 20:23 24:13 26:10 36:13,23 46:19 bulky 68:11 Burning 106:5 business 132:5 buying 52:25 <hr/> C <hr/> C 1:18 7:3 104:14 134:1,1 144:1,1 C-A-P-U-T-O 104:22 C.S.R 144:18 CA-1 3:19 134:10 calculate 111:3 calculation 110:9 California 84:12 call 19:22 21:20 69:12 72:8,9 109:8 120:25 130:23 137:14 called 73:24
--	---	--	---	--

101:18	certified 1:24	122:25 123:8	clarification	131:18
camel 62:1	91:8,21 144:4	123:13 124:6	13:6 33:5	coming 5:5
candor 8:1	144:18	125:3,10,16,18	95:18	39:11 60:2,5
capacity 76:6	certify 109:14	125:25 126:3	clarifying 12:16	63:20
CAPEX 82:15	134:24 144:5	126:25 127:8	clean 137:17	Commencing
CAPRIO 107:18	144:10	127:12 128:18	138:14	1:10
Caputo 3:9,15	cetera 22:19	129:3,13,24	cleanup 115:14	comment 38:20
78:21,22,23	24:14	130:8,10	clear 50:3,13	45:25 55:1
79:16 80:5	Chair 88:2	131:10,12,13	52:3 65:21	84:21 125:19
81:3,5 93:24	chairman 1:13	131:14,17	66:1 100:25	128:17,18
93:25 94:1	1:13 4:1,10,14	132:4,9,15,17	113:14 122:6	129:17,20
95:2,16,23	4:20,22 5:2,7	137:25 138:23	127:1	132:13 133:21
96:22 97:4,13	5:17 7:20	139:1 140:1,23	clear-cut 38:16	141:18
103:22 104:3,4	25:24 31:19,21	141:5,6,8,12	clearly 17:24	commentary
104:12,17,21	33:2,10 35:11	141:16,21	96:13 97:11	103:14
104:22 105:3	35:14 37:5	142:17,25	close 17:3,3 43:6	commented
105:17,21	38:3,21 39:23	change 37:6	117:5 126:16	62:14
106:4,19 107:7	40:12 41:9,11	41:17,18 45:9	126:21	comments 10:4
107:9,13	41:13,24 42:24	48:6 53:17,17	closed 89:22	20:1 26:9
108:18 109:7,9	43:3,13,16	54:4 66:10,11	92:7	53:23,23 98:7
109:13 112:24	44:1 45:18,24	66:13,14 69:5	closer 19:24	103:2,17 110:7
114:15 115:22	46:13,16 48:20	70:16 113:1	closest 13:9	123:1 125:12
116:3 117:2,14	49:22,24 54:15	changes 21:5	16:22 30:5,5	125:23 139:5
120:12 121:11	55:12 56:8	36:20 37:21	94:23	Commerce 17:4
121:18,23,25	60:13 62:3,11	44:8 45:5 48:8	clubhouse 12:7	119:1
123:3,11,15,18	63:9,19 64:6	52:15 67:16,17	COAH 73:3	commercial
123:20,22	65:8,18,22	67:20	COLE 1:21	22:18 69:9
124:8,19 125:5	67:7,8,12,21	changing 35:20	colonial 39:1	Commissioner
career 70:8,9	69:11,22 70:19	70:13	color 53:12,14	4:12
careful 119:9	71:1,1,5,16,21	character 26:12	55:18,20 69:1	commit 44:11
carries 127:18	71:25 72:3	charge 60:8 68:1	colors 56:2	commitment
131:15	76:17,23,25	140:19	62:13	44:12
carry 141:21,23	78:5,10,12,16	CHARLES 3:10	combination	committee 8:23
case 10:19 18:19	79:1 81:10,11	check 141:17	52:22	10:5,6 20:2
24:18 27:4,7,8	81:14 83:16,19	Chicago 84:12	come 32:16 36:2	29:7,10 30:12
80:24 141:22	83:20,21,24	chime 26:25	39:10 51:22	30:17 53:5
cast 129:14	88:1 89:18,24	chiming 45:21	53:5 54:9	54:9 62:2
caution 62:19	90:6 91:1,11	choice 127:17	56:17 57:2	67:10 74:13
cc'd 106:21	92:1 93:6,7,9	chorus 142:14	59:20 60:10,15	84:15 118:16
center 9:1 31:18	93:19 97:15	Chuck 71:20,24	61:4 63:7,16	132:9
73:1 94:5	98:25 102:2,6	78:8 81:16	65:3,5,9 66:16	Committeeman
136:21	102:10,16,22	97:18 102:2,6	67:10 68:22	98:24 131:2
cents 41:12	103:4,10,19,20	132:12	70:20 72:3	common 28:1
certain 6:1 18:4	103:24 105:14	Chuck's 97:16	75:7 117:1	36:21
108:25	105:16,18	Church 56:5	122:12	Communist
certainly 34:14	106:23 107:24	circles 120:16	comes 58:12	133:1
45:14 46:11	108:1,7,12	circus 142:3	comfort 48:12	community 20:4
60:24 94:19	109:3 121:10	cited 21:9	comfortable	compare 76:12
133:15	121:14 122:9	claim 112:8	69:18 87:9	compel 25:11

compelling 8:2 20:14 85:18	condition 54:7 56:24,25 57:5 57:22 58:8 59:5,11,12,18 59:24 63:18	11:3	cookie 53:1	92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3
complaints 39:13	conditional 60:7	constructing 58:1	cookie-cutter 47:24	copied 106:20
complement 120:8	condo 33:17	construction 10:22 48:1 54:12 56:1 111:21,23	cooks 59:2	core 120:17
complete 53:22	conducted 138:13	consultant 7:17	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	copied 106:20
completely 12:6 59:12 73:10 77:6 118:20	confined 18:4	contained 134:17	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	correct 5:6 23:11 28:16 72:15,21 85:12 95:9 126:2 130:15,20 134:8 140:9
complex 112:1 112:11	confirm 105:24	containing 25:6 134:23	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	correctly 15:17 18:2
compliance 9:10 10:8,18 11:18 22:15	conform 105:24	contaminants 140:4	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	corresponds 114:24
compliant 47:1 86:5 101:1	conforming 20:10 24:8 46:6 51:10	contamination 115:6 119:12 139:21 140:17 141:4	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	cost 25:14 47:22 48:6
complied 41:4	conforms 23:21 43:11	CONTENTS 3:1	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	cost-efficient 48:3
complies 13:13	confusing 29:23 116:24	contemplate 33:1 69:12	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	costs 11:12 25:3
compliment 63:13	congruent 32:23	CONTEXTS 3:1	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19 133:2,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	Council 73:4
comply 46:20 54:5 124:12	connection 81:21	context 11:17 12:18 23:3 117:8,18	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	counsel 144:12 144:14
complying 9:16 41:7	consider 8:9 18:22 19:1 20:7 26:20 29:15,18 50:25 53:11 70:4 85:18,22 86:1 87:1 95:5 112:2 115:16 116:7 140:22 140:25 141:1	contiguous 113:25	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
comprehensive 25:25	consideration 70:17 118:18 118:22 139:9	continuation 4:2 4:15 121:1	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
computer 107:23,23	considerations 26:23 49:1	continue 71:8 115:23 125:15 138:3	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
concede 23:10	considered 11:7 23:5 25:1 55:24 64:8	contract 78:1	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
concept 120:4	considering 72:13 95:19	contradict 118:21	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
concern 19:5 39:25,25 40:10 40:18,21 50:14 50:15 55:24 114:25 115:1	considerations 26:23 49:1	control 14:10 90:17	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
concerned 55:15 138:12	considered 11:7 23:5 25:1 55:24 64:8	conversion 45:19 48:24 49:2,4,12,16 49:17,19,21 64:13 84:3	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
concerns 26:11 40:13 63:25 64:2	consistent 29:12 32:12 33:6 38:13 47:17 50:8 77:21	conversations 136:16	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
concession 11:23 130:6	consisting 21:15	conveyed 10:5 20:2	Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
conclusion 13:12	constitutional		Coonce 2:2 4:11 4:18,21 14:11 15:7 71:11,18 71:22 72:2,4,7 78:7,11,13,17 81:7,18 82:1 83:11,22,25 84:6 90:20 91:7 92:2,10 92:15 93:4,14 93:23 97:20 98:4 102:13 103:8,21 104:1 106:1,9,14,21 107:2,6,10,16 107:20 108:3,9 108:14,22 109:6 112:23 114:14 115:21 115:24 116:25 120:10 121:22 121:24 123:16 123:19,21 125:9,13,22 126:2,10 127:5 127:10,21 130:14,18,22 130:25 131:2,6 131:8,10,13,15 132:7,14,19,22 133:2,12,15,18 134:9 136:11 138:2 142:11 142:15,24 143:3	
conclusions 8:14		</		

country 133:1	113:10 118:8	definition 15:1	113:3	developments
County 33:18	120:2 123:24	15:25 16:2	designed 52:20	21:12,14,17
couple 21:8	cursor 14:4	27:20 28:12,23	62:2 65:12	22:20 24:19
26:15 38:7	114:22	46:25 95:6	66:7	31:7 33:17,22
44:20 56:18	cut 115:11	99:25 100:9,25	designs 39:4	deviations 24:3
60:25 65:3	cutter 53:1	definitions	51:24	DeVITTO 2:7
68:4 86:22		100:12	desirable 55:21	diagram 120:16
course 10:6 57:9	D	definitive 59:6	detail 58:23,23	diagrams 19:12
71:16 105:3	D 107:18,20	61:4	determine 11:7	19:22
116:11	108:15	degree 105:7	19:13 25:1	dictated 19:16
Court 10:12,14	D-6 85:7	delay 11:11	determining	92:7
10:16	dancing 37:2,19	delaying 39:17	94:10,14	dictionary 16:1
Court-imposed	date 144:8	39:17,17	develop 29:20	16:2 28:13,18
9:17	David 1:13	deliver 93:10	44:10 68:21	differ 8:13
Courts 25:5	34:10 64:1	delta 106:13	developable	difference 97:5
coverage 113:5	69:15 90:16	107:19,20	73:18 111:6,6	110:10 124:14
Cox 27:23	day 38:2 52:1	demonstrated	developed 29:11	differences
crammed 40:19	deadlocked 63:7	100:18	72:14 82:10	57:24
crazy 51:25	deal 88:23	Dennis 1:16	134:18	different 12:6
create 11:1,15	Deb 4:16 7:11	31:21 33:2	developer 9:14	34:25 39:3
25:19 31:11	7:14 14:9 17:3	density 110:13	16:7 22:12	41:19,22 43:11
32:21 34:4	71:8 93:11	112:15	24:11 25:14,18	44:4 51:20,23
57:24 100:4	97:16 102:11	DEP 138:20	30:15 31:3,11	55:18,20 56:1
created 24:21	125:7	140:17	34:3 40:24	56:18 57:16,24
creates 18:10	debating 60:18	DEP's 139:14	43:18 46:9	58:2 59:20
48:2	Debra 2:2 106:8	Department	47:21 73:8	68:24 77:7,12
creating 47:23	112:21 114:12	102:1	74:24 112:17	82:15 107:3,7
creation 9:5	115:20 116:19	depend 56:13	114:7 137:1	111:22 112:12
11:8 73:11	119:7 121:9	depending	developer's	113:1 120:14
creativity 112:3	127:20 132:21	102:4	113:9	121:20
credentials	133:12 135:7	depends 67:23	developing	differentiation
104:9	decide 92:23	depressed 114:7	72:12	22:9,13
critical 68:14	deciduous	described 35:9	development 9:3	differently 8:6
98:8	120:19	DESCRIPTI...	11:13 12:2,17	difficult 84:9
cross 38:9 49:7	decision 98:8	3:15	13:12 19:7,14	direction 15:2
76:20 77:3	115:16 126:15	design 21:10	20:10 21:1	16:4 17:7
88:5 89:6	decisions 83:1,7	22:16,17,24	22:21 23:2,13	59:10 64:18
90:13 107:4	DECOTIIS 1:21	23:12,22 24:4	24:16,21 25:2	directly 65:4
135:22 137:23	dedicated 86:23	24:5 25:12	25:6,10,19	disagree 55:5
curious 124:9	dedicating 98:12	26:10,14,21,22	29:7,8,11 31:4	64:7 124:10
current 34:24	deemed 53:22	33:25 34:5,20	31:16,25 33:20	disagreement
101:13 110:12	define 22:3 27:4	36:2 38:25	34:1 42:1 44:5	63:6
111:7 113:9,9	51:3 58:23	39:10 42:2	44:16 47:20,25	disappeared
113:21 117:22	defined 28:15	50:4,14 52:19	48:11 74:20,21	103:7
120:18	55:8 63:13	66:1,3 68:18	74:25 75:3,6	disclosure 74:8
currently 12:19	defines 12:24	105:8 112:1	75:18,24 77:10	discuss 4:17
14:20 20:8	defining 63:15	115:16 116:9	120:7	35:6 37:14
90:24 105:11	definitely	117:10 124:10	development's	48:25 58:17
105:13 107:11	111:23	designated	22:8	discussed 10:1

64:8 88:19	doors 16:9,18 66:13 96:3	easy 48:19	102:19,21,25	ESQUIRE 1:19
discussing 109:2 122:19	dot 49:7 114:18 120:23	eaves 62:16	113:3 136:9	1:21
discussion 26:13 32:5 34:12,15 60:16 64:16 65:6 69:23 72:12 109:24 110:17	doubt 42:11	Echo 106:13	engineer's 13:12 19:18	essentially 9:18 28:19
discussions 76:24 118:14	dozen 53:8	economy 47:25 47:25	engineers 138:9	et 22:19 24:14
dismiss 139:6	draft 59:5	educational 104:25 105:5	ensure 79:10	evaluate 10:8 87:14
disrespect 35:25	drafting 19:1	effect 91:18	enter 116:18 135:2	evaluating 12:20
disservice 49:3	dramatically 32:2 54:4	effectuate 21:6	entered 8:25 133:1	evening 78:24 126:24 128:6,8
distance 12:25 18:5 95:5	draw 121:3	efficient 48:3	entertaining 92:19	event 6:24
distances 18:12	drawing 19:18 39:12	effort 61:9	entire 106:20	eventually 65:16
distinction 32:18	drawings 3:16 3:17 16:6 32:3 109:14	either 6:2 17:16 29:25,25 30:19 30:24 33:16 65:15 94:25 102:13 114:19 128:16 139:14	entirety 91:6 117:25	everybody 26:6 36:18,20 52:7 53:7 62:1 69:10,13 108:17 143:6
distribute 106:8 106:10	drawn 111:2	elaborate 5:20	entrance 16:9	everybody's 52:11 138:25
distributed 106:17 113:7	drivers 82:16	elaboration 13:7	entrances 16:13 96:14 97:11	everyone's 117:4
District 136:17 136:23	drop 92:12	elected 74:9	entranceways 96:4	everything's 38:1
divided 113:23	drove 41:25	elements 123:5	entry 16:18	evidence 109:12 116:2 117:13 135:16 137:22 138:21 140:7
dividing 94:6	due 88:15	elevated 42:20	entryways 96:15	exactly 15:8 19:23 28:9 34:16 48:20 59:25 68:23 69:3 76:12 142:21
Division 1:6 12:10 13:21 14:9 15:13,22 16:22 17:17,22 17:24 18:1,5,8 18:23 19:7,20 19:25 30:8 46:21 94:6,8 94:25 95:4,12 95:13,14 119:1 119:18 122:8 135:1	duly 6:20 7:4 104:15 134:2	elevation 13:1,2 96:12	environment 140:5	examined 6:20 7:4 104:15 134:2 135:18
divided 113:23	durational 74:17 76:4	elevations 66:15	environmental 76:8 115:2,14 122:18 135:25 136:9 138:9 139:11 140:16	example 15:4 18:6,11
dividing 94:6	dwelling 22:5	eleventh 49:15	environmenta... 122:20 135:10 136:8	excavation 115:12
Division 1:6 12:10 13:21 14:9 15:13,22 16:22 17:17,22 17:24 18:1,5,8 18:23 19:7,20 19:25 30:8 46:21 94:6,8 94:25 95:4,12 95:13,14 119:1 119:18 122:8 135:1	<hr/> E <hr/>	ELIZABETH 2:3 3:4	environmenta... 76:9	excuse 62:10 108:14 115:9 116:22 123:18
document 132:23 137:6	E 1:18,18 2:1,1 6:19,19,19,19 7:3 115:20 134:1,1 144:1 144:1	else's 80:11	envision 60:4	exceed 72:18
documents 132:22	e-mail 79:2 136:18,22	employee 144:11,13	envisioned 116:15	exception 94:16
doing 36:25 59:17 69:18 81:24	earlier 26:3 79:3 103:13 110:11 136:19	enclosures 16:19 96:17,18	EPA 136:17,23 137:16 138:12 138:20 140:18	excuse 62:10 108:14 115:9 116:22 123:18
dollars 41:2	early 9:22 112:25 113:18 113:18	encourage 23:23	EPA's 139:15	excuse 62:10 108:14 115:9 116:22 123:18
Don 4:10,11	earth 134:17	ends 61:17	equation 113:17	excuse 62:10 108:14 115:9 116:22 123:18
door 44:7	easier 59:5	engage 80:22	equipment 16:19	excuse 62:10 108:14 115:9 116:22 123:18
	east 13:21 30:1 118:1 119:16 119:18	engaged 79:5 87:6	especially 23:2 24:14 35:19 46:20 54:5 77:25	excuse 62:10 108:14 115:9 116:22 123:18
	eastern 14:17 18:13 30:6 94:24	engagement 12:1		excuse 62:10 108:14 115:9 116:22 123:18
		engaging 80:15		excuse 62:10 108:14 115:9 116:22 123:18
		engineer 2:5 13:4 19:13 50:9 84:21,25 86:2,3 87:21 88:23 96:24 99:13,13 100:19 101:4 101:14,19		excuse 62:10 108:14 115:9 116:22 123:18

116:23 117:12 121:20,21 exhibited 115:6 exhibits 3:14 105:22 107:7 107:11,14 120:15 existed 140:9 existence 119:11 existing 47:5 117:21 121:1 expect 43:10 59:17 89:1 126:4 expected 51:19 expects 51:18 expense 70:10 expensive 66:22 experience 21:21 87:23 89:2 expert 5:13 115:3 126:14 126:17 130:1 134:15 135:25 expertise 122:16 122:23 136:7 experts 41:3 explain 77:8 98:16 99:9 exposed 138:10 140:5 extend 53:3,4 extension 67:4 127:24 129:1 142:20 extensions 67:3 extracted 116:4 extremely 12:3 eye 42:25 eyesore 39:14	19:20 29:19 30:7,9 33:19 44:2 47:12 55:19 57:16,18 57:21 60:19 64:21 66:2 68:7,21,24 94:14,20 96:21 97:12 facades 15:12,14 15:20,21 16:18 16:21,22 18:20 20:24 21:4 24:15 48:9 94:25 96:16 face 14:6,9,16 15:13,14,21 29:1,2,25 47:12 94:8 faces 15:10 46:23 facing 13:20,24 14:23 15:1,10 15:11,25 16:2 16:24 17:6,12 17:16,22,24 18:3 19:20 27:4 28:8,19 28:20 29:15,16 29:17,19,24 30:8,9 40:4 94:15,25 95:4 95:12,14 fact 19:14 32:5 63:2 87:9 fact-specific 27:16 factious 24:23 factor 75:12 94:10,15 facts 26:1 factual 140:2 fail 10:20 11:1 61:10 fair 8:25 20:17 31:17 42:18,25 43:20 60:14 64:17 69:7 73:1 74:1	119:11 121:14 122:22 126:20 140:6 fairly 21:18 32:11,21,22 37:9 114:8 Falvey 1:14 27:2 27:10 31:14,20 39:24 40:16 61:6 93:12 124:4,8 125:2 131:4,5 141:14 familiar 99:17 families 114:11 far 46:25 47:9 100:15 102:4 115:17 138:12 Farm 76:13,15 fashion 58:8 118:16 fashioned 57:22 faster 126:5 favor 45:14 142:11 features 35:1 February 10:3 feel 44:8 69:17 85:24 121:6 122:3 feeling 21:6 feels 123:4 feet 13:20,24 14:19,21 15:19 15:24 16:23 17:11,18 18:7 42:10,12,16 95:11 99:4,5,6 99:6 100:10,11 100:13 111:9 111:10 113:23 115:12 fellow 87:16 felt 86:4 fenestration 48:8 fewer 30:13 field 114:1,3 fight 100:16,22 101:13	figure 43:1 62:25 64:13 114:3 figures 111:13 112:7 fill 32:17 99:4 100:4 115:9,10 filled 138:10 final 1:7 4:3 95:18 114:12 finally 70:18 financially 144:15 find 36:21 43:23 61:23 findings 87:18 finds 25:20 fine 53:9,10,11 53:15 54:3 83:16 91:11 92:1 105:18 131:20,21,22 finish 90:22,25 137:4 finished 47:7 60:10 100:1,13 116:13 finishes 52:16 54:10 57:7,8 59:10,21,22 112:11 finite 58:18 fire 99:7 100:15 100:16,16,19 100:22 101:2,2 101:6,8,25 102:1 firehouse 26:15 34:21 52:6 64:11 110:5 Fireman 99:7 firm 7:18 13:7 33:13 111:18 firm's 12:1 firms 33:13 first 28:24 31:25 35:12 36:7 40:13 51:2,7 60:22 79:12	84:10,17 87:7 87:10 103:22 104:12 105:3 108:22 109:1 109:16,25 117:17 134:9 134:19 Firstly 25:24 fit 118:17 FITZPATRICK 1:21 five 42:9,10 five-year 138:13 flagpole 121:3 flexibility 64:15 floor 42:5 101:9 111:7 floors 42:5 follow 53:21 followed 51:8 53:21 Following 103:4 follows 6:21 7:5 13:18 104:16 134:3 footage 111:14 force 122:14 forced 112:1 foreclosed 128:9 foregoing 144:6 foreseeable 70:12 forever 35:22 38:24 39:4 60:2 form 14:25 Fort 56:4 forth 107:22 144:9 forum 140:9 forward 25:16 39:18,22 49:11 56:9 83:8 found 8:1 10:23 24:18 25:5 106:15 138:9 foundation 13:1 47:3,8 100:2 100:14
F				
F 7:3 144:1 facade 15:2,3,9 15:10,11 16:5 16:8,8,12,15 16:17 17:1,6 17:25 18:22				

four 51:23 53:6	fundamentally 124:12	114:1 136:1,19 137:8	66:13,13,21 67:2 68:5 70:1 70:10,13,16 77:17 78:21 81:19 82:19,19 89:21,22 90:9 91:3,17 92:23 93:10 98:6 99:12 107:13 107:22,24 108:20 109:1 120:20 124:3 125:23 127:11 127:13 133:2 135:8 137:11 141:9,23	36:21 group 80:19 grow 42:12 guess 13:17 14:3 14:9 40:3,3 51:20 64:1 132:12 guidance 14:25 guidelines 22:17 22:25 23:6,12 23:15,22 24:1 24:4 guys 4:9 62:8 81:25 92:23
Fourniadis 2:6 35:19 51:2 55:7,10 56:3 56:15,23 57:7 57:10,17 61:7 62:10 63:11 65:8 66:5,9,25 67:9 68:17,25 70:1,22 122:9 123:25 125:17 131:21 134:15 135:8,16,24 136:4,13 137:16,21 138:2,5 139:17 142:18,23 143:5	funding 74:25 further 8:10 12:16 18:10 30:2 54:23 93:16 103:18 125:1,18 128:8 139:19 144:10 future 70:12 78:4 114:21	given 7:22 38:14 72:18 112:13 118:8 126:24 gives 59:11 giving 112:18 122:10,17 glad 51:9 98:9 98:10 go 4:23,24 5:13 18:8 26:7 30:22,25 31:4 35:12 36:12,23 37:13 38:24 39:4,19 40:2 41:1 45:25 56:20 60:2 62:3 64:18 68:9 70:18 71:3 78:7 81:10,21 83:14 87:14,16 89:21 90:9 92:3 93:25 95:22 98:4 108:16,23 108:25 109:4 116:5 123:15 124:6 126:7 135:4 138:3 141:9 goal 20:9 51:11 73:11 goes 49:10 going 4:17 8:15 11:21 25:21 33:25 34:19 35:15,21 37:14 39:19 40:9 41:1 42:10,11 44:16 48:16 51:24 53:3,15 53:16,17 54:4 54:14,24 56:17 58:22 59:14,19 61:9 62:7,22 63:21 64:24 65:2,13,16 66:9,10,11,12	good 5:8 6:16 10:25 39:5,8 45:23 58:11 59:3 61:22 62:20 67:15 73:20 78:23 98:21 120:24 143:5 Gotcha 73:13 78:3 gotten 137:17 governing 8:4 gracious 65:19 92:5 102:9 grade 47:2,5,7 99:15 100:1,14 grading 100:5 Graduate 105:7 grant 10:12,16 60:7 127:24 grassy 113:11 gray 35:8 great 71:7 82:24 83:18 85:3 88:12 89:19 108:6 133:11 greatest 120:7 green 113:4,8,11 113:15,20,25 114:5,21,21 117:25 121:2 123:24 ground 12:25	guidance 14:25 guidelines 22:17 22:25 23:6,12 23:15,22 24:1 24:4 guys 4:9 62:8 81:25 92:23
frame 60:15 FRANCIS 1:21 Frank 4:5,5 103:20 129:3 131:17 143:4 frankly 40:7 front 15:2,11,14 15:21 16:3,6,8 16:17 17:1,6 17:25 18:20 19:24 28:20 42:6 53:6 85:11 94:14,20 94:25 95:24 96:1,1,3,21 97:12 100:21 118:15 frontage 12:13 28:4 60:19 96:8 frontages 12:10 fronts 47:11 frozen 27:12 frustrate 11:12 full 36:17 74:8 86:24 112:3 fully 24:8 51:10 85:18 92:11 113:12 fundamental 120:4	G gable 42:6 44:6 gain 100:16 101:14 game 36:9,25 45:2 48:14 garage 95:19 garages 16:9 42:4 66:12 96:3,20 100:22 garbage 40:9 gears 113:1 general 23:6 37:9 80:18 103:2 generally 25:13 60:6 generate 25:14 gentleman 122:10 Georgia 56:4 getting 36:16 40:22 42:21 61:15 69:18 92:19 GIBLIN 1:21 gingerbread 52:23 53:9 62:16,17 give 11:22 48:24 49:19 51:4 53:7,20 56:1 60:25 61:20 67:3,4 86:24 87:12 104:24 107:21,25 110:3,3 111:13	H H 6:19,19 7:3 134:1 half 53:8 81:12 82:22 111:6 Hall 93:11 Hamptons 84:10 92:22 136:20 hand 6:18 7:2 31:22 32:3 45:20 55:13 61:21 81:15,19 93:24 97:16 103:6 133:6 141:18 handle 127:9,11 hands 1:13 4:1 4:10,14,20 5:2 5:7 7:20 25:24 31:19,21 33:2 33:10 35:11 38:21 39:23 41:9,13 45:18 45:24 46:13 48:20 49:24 54:15 56:8 60:13 62:3 63:9,19 64:6 65:18,22 67:7 67:21 69:11,22 70:19 71:5,16 71:17,25 72:3 76:25 78:5,10 78:12,16 81:10		

81:14 83:16,21 83:24 89:18 91:3 92:1 93:6 93:9 97:15 102:2,6,10,15 102:16,22 103:4,9,10,20 103:24 105:14 105:18 106:23 108:1,7,12 109:3 121:14 122:25 123:8 123:12,13 124:6 125:3,8 125:10,16,21 125:24,25 126:3,25 127:8 127:12 129:3 130:10 131:13 131:14,17 132:9,11,17 139:1 141:8,12 141:16 142:17 142:25 happened 98:10 happening 78:20 93:13 happens 79:11 100:3 102:5 happy 35:23 36:4 52:3 70:4 83:6 hard 75:7 Harmony 56:5 Harvard 105:8 hate 142:19 hazardous 55:16 health 137:18 138:14 hear 27:9,13 40:21 46:4 51:9 59:15 72:6 78:19 81:25 84:5,6 86:25 98:3 104:8 heard 26:13 37:19 39:13 40:12 42:8	56:15 64:9 79:5 88:17 89:17 104:4 110:4 127:2 142:14 hearing 1:10 7:23 13:6 21:17 48:15 51:8 59:15 70:8 91:16 125:6 127:19 127:25 130:4 134:13 135:3 143:7 hearings 56:19 56:19 height 12:21,23 12:24 13:17,19 18:3 19:2 20:11 30:24 40:1,6,10,13 40:18 46:3,6 47:1 50:9,11 85:6,6,7 86:6 86:16 95:14 98:22 99:15,25 100:9 101:1 124:17,20 heighth 98:14 heights 21:3 112:13 help 22:22 42:13 68:3 83:8 helpful 7:13 98:17 109:21 helping 92:22 helps 36:3 114:4 hereinbefore 144:9 Heritage 136:22 hey 66:24 68:8 95:11 Hi 78:23 104:4 high 32:20 99:3 99:6 100:10,11 higher 17:17 30:22 32:7 40:5 42:13 76:2 112:10	highest 13:2 47:3 112:18 115:9 highlighted 113:2,8 Hill 1:1 10:13 12:4,18,23 23:3 74:17,18 75:5,10,20 76:3,4,10 77:11 82:4 98:9 104:7 105:4 140:13 140:20 hip 42:5 hired 79:19 122:11 hiring 126:14 historical 31:24 32:24 HMFA 74:25 hold 41:19 97:25 105:5,11 108:11,15 120:20 122:21 127:13 129:13 133:4,18 142:18,18 hole 70:11 home 82:6,21,21 107:23 137:8 homes 12:4 22:18 40:21 52:25 honestly 77:24 98:20 hope 42:15 48:12 49:12 hopefully 49:13 64:22 94:13 121:4 hoping 36:16 horse 62:2 hour 49:15 81:12 138:6 house 12:11 13:10,24 22:3 22:4 32:8 99:6 100:11 101:7	101:11,23 household 80:13 housekeeping 134:6 houses 21:12,14 21:15 96:10 housing 9:1,6 10:23 11:9 21:12,14,25 22:23 25:2,4 25:11 29:9 31:18 33:20,23 44:5 48:4 72:13,17,20 73:1,4,12 74:1 75:11 hundred 18:7 75:6 hypothetical 95:3 <hr/> I <hr/> idea 31:1 37:2 37:17 50:17 58:7 60:25 61:15 62:20 73:7 ideal 60:12 ideally 22:19,24 31:6 identical 42:4 51:18 identified 9:2 96:2 114:25 II 56:5,6 illegal 124:13 illustrative 116:9,15 117:19 imagine 42:12 imagining 55:17 immediately 87:4 118:3,7 immunity 10:16 impact 11:7 25:1 impacts 20:3 impede 11:13 imperative 9:11	impervious 113:5 implement 9:9 10:20 implemented 119:5 imply 24:2 important 94:10 118:22 impose 73:8 imposed 59:18 73:2 improve 66:19 improvement 39:19 65:11 122:7 improvements 123:4 inaccessible 112:4 include 20:15 24:1 included 20:17 79:2 109:18 118:5 includes 117:25 including 24:22 33:15 inclusionary 9:4 20:17 25:10 31:7 33:21 34:1 47:20 73:15,17 74:21 incorporate 36:19 increase 111:12 increased 111:10 indefinitely 53:4 indicated 87:2 91:14 96:24 126:19 128:3 128:19 136:18 indicates 113:14 Indiscernible 38:9 76:20 77:3 88:5 89:6 90:13 107:4 135:22 137:23
--	--	---	--	--

individual 17:20 57:20 79:24 80:14,21 93:18	100:20	14:7 24:18	justify 139:3	28:3,4,5,18,19 29:23 30:1,7 30:19,20,23
industrial 39:3 113:21	interpret 8:6	74:25 82:7	<hr/> K <hr/>	31:3 33:13,16 33:16 34:2,10 34:22,22 35:4 35:22 36:12,17 37:10 40:19,23 40:25 41:1,4 43:10,22 44:9 44:13,14,19,25 45:1,2,6,7,10 45:13 46:16 48:14,22 50:3 50:6,7,14,16 50:17,21,24
industrial-loo... 120:1	interpretation 28:24,25 85:9 87:15	84:12 105:2,10 105:12,12 135:1 144:5	Kaufman 5:5,23 5:24 6:3 14:2 14:15 15:17 18:2 22:1,14 23:10,17 26:4 30:3 52:14 67:9,24 69:24 86:6 95:9 98:15 125:14 125:19 126:6,9 126:10,13,17 127:1 129:25 130:5	51:18,23 53:19 53:25 54:1,18 57:14,15,16 58:9,16 59:1,4 60:19 61:13,15 61:17,18,20 62:12,15,18 63:8,11 64:4,9 64:22,23 65:7 67:5,6 68:8,24 70:15 73:2,22 74:3 76:8,12 77:20 78:17,20 79:9 80:12 82:25 85:17 92:11,11 95:13 95:13 99:16,19 108:8 117:9 119:10 121:11 124:16 130:9 135:10 136:14 136:15 139:23 140:21 142:2
industrial-loo... 120:1	interpretations 8:13	job 10:8 63:4,15	Kaufman's 7:21 7:24 8:14 20:13 21:9 22:7 84:19 85:17 130:5	Knowledge 136:21
inflammatory 136:1	interpreted 13:7 15:17 16:20 17:10	jobs 51:14	keep 24:17 25:15 32:6,11 39:16 97:23 134:6 136:6,7	known 4:4
influence 82:25	interpretive 31:14,15	John 1:14 27:1 39:23 61:14,24	keeping 134:16	<hr/> L <hr/>
information 33:14 59:7 60:9 68:15	interrupt 77:19	join 84:2	key 11:3	L 2:1 6:19,19 7:3,3 134:1
information 33:14 59:7 60:9 68:15	interrupted 90:23	Jolanta 1:19 4:23 7:15 27:3 51:3 56:10 61:19 74:4 105:15 133:3,7 139:2,4 140:2	kick 4:6	label 108:23 115:25
initial 8:3 87:4	interwoven 99:16	Jolanta's 63:12	kidding 51:5	labeled 134:10
initially 116:6	introduce 48:6 82:3	Jon 3:9 78:6,21 103:22 104:21 104:21 121:16 122:25 124:6	kind 36:20,25 37:2 40:2 43:4 44:4,8 45:1,6 52:10 67:15 68:9	
input 35:7	introduction 7:15 48:7	Jones 1:13 35:14 37:5 38:3 41:24 42:24 43:3,13,16 44:1 55:12 67:12 71:1,21 83:19 88:1,8 89:19,24 90:6 90:23 91:1,11 91:13 92:8 93:19 129:13 129:24 130:8 131:11,12 132:4 140:1,23 141:5,21	kind 36:20,25 37:2 40:2 43:4 44:4,8 45:1,6 52:10 67:15 68:9	
inquiry 27:16	investigation 114:17	Jones's 82:18 91:19	kitchen 59:2	
instance 17:12 47:13,16	involved 51:13 59:25 69:19	Jonesville 44:15	know 4:23 5:4 7:15 8:15,19 9:13 11:5,10 12:5,9 13:9,11 14:4,9 15:1 16:20 17:2,14 17:14 18:6,11 18:21 19:12,21 20:14,16,16 21:11,12,19,23 22:21,21 24:5 24:7,24 25:13 26:13,18 27:5 27:14,19,22	
intend 30:12 79:20	iPad 84:10	Jordan 69:13		
intended 19:1 22:22 29:7,10 54:17 94:13 113:10	issue 14:22 31:15,15 39:25 40:6 46:7 50:12 140:15 140:16	judgment 10:13		
intent 29:4,6 40:3 63:10	issues 5:20 98:15 99:15 139:11 140:11	jump 4:14 46:10 108:20		
intentionally 11:11	<hr/> J <hr/>	jumped 102:17		
intentions 10:25	J 1:16 104:14	June 10:15 134:13,20,25		
interaction 124:24	January 7:19	jurisdiction 139:10,14,15 139:22		
interchangeably 22:4	JC 106:12 116:22			
interest 9:20 40:15 117:16 126:19	JC-A 109:1 116:23			
interested 144:15	JC-A1 3:16 109:8,9,12,13			
interesting 52:10	JC-A2 3:17 115:25 116:2			
interior 13:25 47:12 94:21	JC-A3 3:18 117:13			
intermingled 48:11	Jersey 13:22			
internal 12:14 15:12,14 17:8 17:12 18:15 47:15 100:17				

lack 22:8	131:25	limited 118:15 122:4 128:18	Liz's 71:15 92:16	110:15 138:8
laid 111:15	legal 6:2 78:1	limiting 129:5 129:25 131:24	LLC 1:6 4:3 134:14	looking 28:22 34:22 39:15 41:18 42:21 50:17 51:16 57:14,15 59:9 66:19 67:16,19 68:23 73:14 75:8,16,21,22 77:16 84:23 119:14 126:23 134:22
land 32:1,11 73:24 76:9 98:23	legislative 29:4	Lindbergh 75:18,24	Lloyd 81:22,23 81:24 82:2 83:12	looks 39:5,8 42:2 58:1 64:24 66:2
Landscape 18:16	Leheny 2:3 3:4 5:18,19 6:6,8 6:10,16,22 7:8 7:9,16 14:14 15:8 27:24 28:3,17 29:22 33:8,21 34:8 68:5 72:10,22 73:22 74:7 77:19,24 79:1 85:1,4,4,16 87:2,18 91:23 93:17 94:2,12 95:7,21,25 97:1,7,22 98:19 99:11	line 13:21,23,25 14:17,18 15:22 17:21 18:19 34:23 42:14 138:24 139:24	LLP 1:21	losing 9:18
landscaping 17:25 20:15 42:23	lend 48:12	lines 18:13,15,16 18:17 19:25 61:18	located 8:20 16:10 94:3 136:21	lot 12:8,9 17:21 18:13,15,17,19 19:25 26:9 29:21 32:18,20 32:21 34:23 39:13 51:12 54:12 61:8 66:24 94:6,9 104:5
language 14:23 23:23 24:1 28:25	let's 49:11 62:3 78:7 81:7 83:14 84:1 92:18 93:2,8 93:21 102:14 116:22 123:14 125:2 132:11 135:14 138:1 142:5,10	listen 42:8 85:19 91:5 99:3 122:17	location 19:16 114:20,24 115:4	lots 1:7 117:19 120:19
Lanzafama 2:5 3:5 6:25 7:1,6 13:13 41:11 46:4,15 67:8 68:19 86:3,10 86:14 99:17,20 99:23 101:16 101:17,20	letter 23:16 49:6 143:1	list 76:18 104:9	long 1:1 10:12 12:4,18,23 16:12 19:19 23:3 27:12 48:17 74:17,18 75:5 76:3,4,10 77:10 82:4 98:8 104:6 105:4 122:16 140:13,19	love 84:18
Lanzafama's 87:18	level 13:1 32:6 32:18,21 64:19 115:17,18	listed 109:4 116:21	longer 17:21 47:12 95:20 96:25 97:1,5,8 97:10	lovely 40:8
large 33:16 111:17 120:19	liar 137:15	listened 7:24 36:3 90:10 91:15	longing 52:11	low 32:19
largest 114:5,21	Liberty 52:21	listening 26:8 63:12,13 86:23 126:6	look 21:20 28:12 28:14 36:13 37:7 38:4,25 39:1,2 40:8,17 41:21 44:8,14 51:5,25 55:17 55:21,23,25 57:18,23 58:22 59:22 63:23 65:14 66:15 67:1 70:22 85:20 117:10 122:5	low- 10:22
late 36:24 38:2 45:2 48:14 64:16 92:19	license 105:12 144:18	litigation 9:14	looked 35:23 70:23 87:5	lower 30:13,21 81:19 120:23
latitude 34:2	licensed 105:2,8	little 14:12 26:3 29:23 34:24 36:6 40:20 42:12 44:4 52:17 53:10 54:18 55:15 64:22 75:4 113:1		lowering 21:2
Laurel 9:16 10:18,24	licensure 105:1	live 54:11		lowest 12:25 47:2 72:19 100:1
law 10:19 24:18 27:4,7 28:14 49:7 80:16	lie 17:8 18:15	living 35:21 43:4 48:17		LSRP 135:18 138:7,8
lawsuit 9:12,13	likelihood 11:2 11:8 25:2	Liz 5:18 7:16 27:19 28:16 29:5,12,14 34:22 35:9 46:8,17 47:19 48:24 67:22,25 68:20 69:13 71:15 72:8,9 85:4 86:18 97:18,22 103:11		LU 13:18
lawsuits 10:14 10:17	likes 38:25			<hr/> M <hr/>
layout 116:14	liking 36:7			M 7:3,3
leaching 140:12	limit 118:9 127:25 129:16 129:20			main 110:10
leaking 140:5				major 1:7 4:2
learn 78:4				majority 16:10 63:2 96:5
leave 26:24 27:17 58:5 69:22 126:1				making 26:17
Lee 69:9				Malinousky
left 12:19 44:2,6 103:16 110:25 125:11 126:8				

1:15 41:16 42:17 43:2,9 43:14,24 67:14 131:6,7 Management 136:21 mandate 10:24 mandatory 23:25 24:2 manner 29:12 112:10 118:19 map 117:22 March 10:3 98:25 99:1 marked 106:12 109:12 116:2 117:13,21 market 25:5 marketed 25:8 mass 20:5,23 21:7 46:22 massing 19:8,22 69:5 massive 24:13 master 111:17 116:7 master's 105:7 match 41:19 materials 68:12 math 73:19 matter 1:4 39:6 MATTHEW 2:8 maximum 13:16 13:19,23 mayor 1:14 33:4 33:9 34:10 36:22 37:8 38:4,8,11 44:13 46:3 48:13 50:15 58:9,20 59:4 60:1 61:13 64:1 65:25 66:8 68:9 69:15 90:16 92:13,16 93:1 127:15 129:10 129:22 130:16 130:18,23,24	141:23 142:2,7 Maziarz 1:19 4:24 5:6,9,16 6:11,17,23 7:7 7:10 27:9,11 28:2,9,21 31:13 40:11 55:7 56:12 57:8,12 58:19 59:3 74:6,8,13 75:15,22 76:6 76:15 77:5 79:12,18 80:8 81:4 86:21 88:3,9,13 89:3 89:14 90:3,12 91:12 104:11 104:18,23 105:16,20 126:13 127:6 127:17,22 128:22,25 129:6,16 130:2 130:13,21 133:4,8,20,23 134:5 136:3 139:7 140:8,24 142:21 Meadowview 119:19,21 mean 15:1 20:18 27:15 29:2,24 34:10,13 35:25 36:22,23 37:4 37:4 40:5,7 44:1,25 49:6 55:16 60:17 73:7,10 74:4 94:17 97:2 98:20 122:16 129:4 meaning 29:16 68:10 meaningful 64:23 means 29:3 30:14,22 37:18 51:4 74:20 83:5 118:25	meant 14:24 21:22 measured 12:23 99:25 100:13 measurement 47:7 mechanical 16:19 96:18 meet 22:22 43:20 44:11 45:8 46:24 54:8 meeting 5:22 8:1 19:3 51:6 60:24 65:13 66:18 70:4,15 79:9,21 89:20 90:11 91:6,14 96:23 103:1 110:5 122:13 126:11 127:14 127:19 128:10 131:19 142:12 142:16 meetings 10:3 19:5 51:7 53:8 56:20 84:9,15 86:22 110:17 122:19 138:7 meets 44:17,18 member 4:8 27:2,10 31:20 31:23 33:11 34:6,9 38:19 38:23 39:24 40:16 41:16 42:17 43:2,9 43:14,24 46:2 46:5 55:14 61:6,25 65:20 65:23 67:14 69:8 74:14 79:3 80:6,8,10 80:25 81:11,17 83:18 93:2,7 93:12,21 106:7 106:11 124:4,8 125:2 126:18 126:22 128:2	128:20,23 129:4,11 130:11,16,20 131:1,5,7,9 135:14 137:25 141:10,14 142:5,9 members 1:12 3:8 8:18 19:6 48:22 58:13 59:16 80:19 88:14 106:17 106:22 107:24 128:6 131:23 132:1 memory 8:17 117:4 mentioned 52:19 110:5 124:16 Mere 10:24 merely 10:8 merits 61:10 Merriam 16:1 28:18 95:6 met 47:10 method 111:23 mic's 115:22 Michael 2:5 3:5 45:19,25 46:14 49:5 81:14,21 Mike 67:25 68:15 81:10 99:19 mile 82:22 millings 138:11 Millington 1:6 4:3 26:12,15 34:21 38:6 64:10 82:7 99:7 102:1 104:6 105:4 116:8,12,16 117:22 123:23 134:14 135:1 136:22 mind 24:18 25:16 26:8 45:21 46:7,8	47:17 96:8,19 mind's 42:25 minimize 20:3 20:22 minimizing 21:6 minimum 77:18 minute 133:19 minutes 19:4 48:23 121:13 126:1 128:19 129:20 131:25 131:25 132:12 missed 86:10 misspoke 115:10 mistaken 84:16 mixed-use 8:20 MLUL 96:10 moderate-inco... 10:23 modifications 21:3 24:12 54:10,20,20 63:23 64:15 moment 90:21 moments 49:20 monitoring 114:19 month 132:23 months 70:24,25 moot 32:20 Morris 33:18 Moskowitz 27:21,25 mothballed 38:6 motion 93:19 129:8,14,16,19 130:12,14 131:15 141:11 141:15 142:7 Mount 9:16 10:18,24 mouth 58:7 move 39:17,21 44:2,3,6 61:17 66:10,12 71:25 77:1 83:8 92:18 93:2,8 93:13,19,22 102:19 114:22
--	---	--	---	---

ordinance 8:5,6 10:9,11,16 11:20,23 12:15 12:24 13:5,8 13:16 14:22,24 15:18 16:21 17:10 18:9 19:2 20:12 21:13 22:3,6 23:9,11,17 24:9,24,25 28:23,23 32:4 32:13,25 33:6 38:13 41:20 43:12 44:17,19 46:18,24 47:2 47:18 51:8,21 53:20 54:6 85:10,20 95:10 99:24 100:9,12 100:24 124:13 141:3	P 1:18,18 2:1 104:14 p.m 1:10 143:8,9 page 3:2,15 109:16,20 116:7,17 117:20 pages 53:22 Pam 71:25 72:4 72:5,9 76:25 78:5 102:16,18 103:5 132:12 141:9,17 Pam's 141:18 paper 12:11 17:4 91:9 93:10 parameters 10:2 parenthetically 52:18 parents' 82:6 parking 17:8,13 39:20 47:16 94:6,9,21 110:22 111:19 112:2,6 parlance 28:16 part 31:16 34:14 37:23 49:1 139:11 partially 117:15 particular 19:8 particularly 20:24 parties 144:12 pass 68:16 Passaic 101:11 passed 32:4 Paul 2:7 65:20 65:22 pause 53:3 71:2 pavement 136:24 pedestrians 121:4 people 33:24 39:7 41:17 48:4 52:17,24 54:1 63:1,3	64:10,23 68:10 68:12 69:20 101:9 125:24 percent 19:15 30:16 33:23 72:21,24,24,25 73:5,6,21 74:2 74:19,24 75:6 75:10,13,14,23 77:10,18 111:12 113:5,6 percentage 72:19 73:8 74:15 Perfect 82:2 perfectly 35:10 56:16,22 84:16 period 33:1 permit 16:21 17:11 127:13 permits 113:4 permitted 15:24 80:6 104:10 person 79:8,16 79:22 81:15 89:11 128:19 129:21 personal 45:8 83:2 personally 35:14 35:17 39:5 40:17 41:25 134:24 perspective 24:8 31:24 32:25 82:11,15 83:2 pertain 92:14 pertaining 92:17 pervious 113:12 Pfeil 1:16 33:11 34:6,9 46:2,5 65:20,23 81:11 81:17 83:18 93:2,7,21 98:25 128:20 128:23 129:4,9 129:11 130:11 130:15,16,20 130:25 131:1	135:14 137:25 141:10 142:5,9 Pheil 130:19 Phillips 7:18 photo 3:17 134:19,21 135:4,7 139:3 photographer 135:13,13 Photographs 3:19 photos 133:13 134:16,25 135:2 phrase 37:17 pick 103:15 121:16 133:16 pictures 133:13 135:19 142:1 piece 40:9 87:13 91:9 place 28:11 36:14 42:23 78:2 144:8 plan 1:8 4:3 7:12 10:9 14:5 19:11 20:18 25:11 29:9 32:15 33:1,5 38:12 44:17 52:6 53:17 57:3 61:4 65:10 66:16 109:17 110:25 111:1 113:2,9 113:10 116:7,9 117:18 119:11 121:2 139:9 140:25 141:2 planner 2:3 5:18 6:3 7:17 9:23 35:15 50:9 79:17,19 80:22 84:20,24 87:22 88:22 98:14 102:22,23,24 118:21 122:12 122:21 125:19 127:2,3,9	128:12,13 130:1,5 planner's 90:4 128:1 planners 7:19 12:2 27:18 127:3 planning 1:2 2:2 5:21 6:2,5,6 7:17,23 10:1,7 19:4 27:22 28:1,10 33:13 85:12 88:24 91:6,12 110:18 111:17 117:9 121:13 122:11 132:5 135:3 140:14,20,21 plans 10:25 32:3 41:2 47:6 56:18 64:11 plausible 41:6 plaza 120:18,22 121:1 please 6:18 7:1 27:1 33:10 35:12 38:21 77:1 84:8 97:23 104:19 104:24 109:19 117:21 118:13 119:6 120:9 121:8 122:1 123:1 124:7 134:19 135:5,7 136:9,14 141:13,16 pleasing 20:19 25:20 34:4 plenty 25:22 plus 42:5 115:13 point 5:17 6:9 13:2 17:14 18:25 22:8 25:21 33:4 39:16,21 46:10 47:4 49:6 54:21 56:10 59:4,7 61:10
P				

63:20,20 67:15 68:9 69:4,7 71:13 77:5 79:2,6 80:4 81:6 82:18 91:13,25 93:10 95:18 97:10,17 103:25 110:18 114:20 115:7 115:13 121:15 123:23 124:23 125:1 126:3,8 126:16 128:5,9 141:20 pointed 21:16 22:1 47:19 48:13 50:15 57:25 68:25 95:9 pointing 26:4 points 8:8 18:2 21:9 48:16 policy 129:7 pool 17:5 poor 63:15 portion 10:17 98:21 126:22 portray 115:15 position 6:1 42:21 45:17 50:3 65:24 positions 6:1,2,3 36:18 possibility 82:23 possible 60:10 72:19 106:25 post 107:8 posted 105:24 107:12 potential 33:13 119:13 potentially 22:11 30:23 126:9 powers 9:19 practice 80:16 105:11 practiced 105:11	precedent 10:19 preceding 9:22 PRECISION 1:23 predecessor 9:23 predominant 12:5 Preiss 7:18 preliminary 1:7 4:2 prepare 9:8 prepared 9:23 116:10,11 present 1:12 4:13 60:17 64:20 65:9 112:7 113:24 115:15 118:18 122:5 140:10 presented 26:14 50:5 52:2 64:12 66:17,25 110:12 114:1 114:16,18 116:10 121:21 presenting 50:18 109:22 prettier 64:12 pretty 20:16 48:2,14 117:23 120:24 prevent 119:15 previous 96:23 99:18 110:17 120:21 121:2 previously 2:6,7 2:8,9 105:10 107:8 116:20 primary 14:22 prior 12:1 26:14 Prism 1:6 4:3 7:22 32:16 101:25 134:14 Prism's 19:11 private 94:5,9 probably 14:10 22:25 30:12 64:11,11 71:3	99:14 problem 53:2 procedural 79:1 97:17,23 procedurally 79:10 procedure 91:8 proceed 56:10 121:11 PROCEEDIN... 1:7 process 6:14 26:18 88:15 104:5 117:6 126:5 procure 74:19 produce 30:18 produced 38:5 product 60:11 63:2 professional 49:4 79:4,13 79:14,17,19 80:22 88:21,22 88:23 101:21 104:8,25 105:17 117:9 117:10 professionally 105:9 professionals 3:2 50:7 51:9 52:13 53:24 57:1 58:6,24 59:8,17,20 60:9,14,22 61:3,22 62:4 65:2,9 66:23 69:23 70:24 87:5,16 88:20 122:22 profitable 44:11 profitably 25:7 project 9:4 20:18 22:15 23:21 39:18 51:13,16 52:4 52:5 55:16 70:12 73:9	83:8 112:9 117:8 124:25 project's 11:18 projects 21:25 23:6 33:15 111:16 prolonged 26:18 properties 54:22 118:1,2 property 14:1 14:17,18 15:21 42:7 82:10 118:8 120:1,3 139:12 proposal 7:22 32:17,21 proposed 11:18 12:22 14:20 20:8 22:15 23:21 31:25 36:5 42:3 43:7 110:19 111:8 112:16 114:7 121:2 prototype 12:5 proud 49:10 provide 8:16 10:21 13:6 14:25 24:14 30:18 31:2,10 31:10 34:3 47:22 48:4 85:23 129:19 provided 16:14 18:17 19:12 96:7 101:25 provides 16:2 providing 19:14 22:12 140:3 provision 22:6 provisions 19:2 21:11,20 24:25 96:9 prudent 60:21 public 3:14 5:4 7:16 26:8 45:20 47:14 49:2 51:7 71:9 71:13 79:3,5	79:14,22,24 80:2,7,9,11,18 80:19,21,25 81:1 85:25 87:13 88:14 96:10 103:3,16 103:17,24 104:1 118:23 125:11,18 126:19,23 128:2,6,17,17 129:5,17,17,20 130:4 131:23 132:2,12 134:13 144:3 pull 107:17,21 108:10,15 punt 99:12,21 purchased 82:6 purport 80:13 purporting 80:1 80:18,25 pursuant 8:23 pursue 111:22 purview 123:6 push 54:18 pushing 78:13 put 5:24 6:6 7:11 36:8,14 40:9 41:12 49:12 54:7 56:9 61:8 62:6 62:23 67:9 80:23 108:21 110:20 117:7 124:1 132:22 132:23 133:12 putting 45:16 <hr/> Q <hr/> qualified 5:25 135:25 136:8 qualify 104:12 quality 112:10 112:18 question 27:2 33:12 37:22 46:8 49:8 50:11 67:22
---	--	---	---	--

72:11 77:16	18:5 19:7	57:3 65:24	49:22 50:1	42:19 66:7
78:1,25 84:17	20:25 30:10	70:7	76:17,22	renditions 56:18
84:18 90:7	32:9 115:18	reasonably	103:18 121:10	rental 33:17
91:8 92:6 94:1	119:2,17 120:2	111:19	131:20 137:2,5	72:25
97:14,18	raise 6:18 7:1	reasoning 119:3	137:9,13	rentals 72:20
102:18 113:19	raised 40:1 82:5	reasonings 8:12	142:22 143:1	73:5
113:22 124:5	98:16 100:4	reasons 60:1	regard 12:21	replay 86:13
questionable	125:8 133:7	83:9	13:8 23:14	reply 85:23
115:16	raising 125:21	Reaville 44:15	46:18 139:16	report 114:17
questioned	125:24	rebut 128:16	140:11	132:10 140:4,7
22:14 92:24	rapidly 142:3	rebuttal 5:10	regarding 7:22	140:9,10
questioning	rationale 8:12	recall 6:15 81:20	94:2 96:10	reporter 38:9
83:15 102:3	reach 99:8	96:23	regulation 119:4	76:20 77:3
questions 25:23	reaction 87:4	recap 25:25	regulations 10:2	88:5 89:6,10
71:14 89:25	read 15:18	received 105:25	regulatory	90:13 107:4
90:2,4 91:22	85:19	108:4 109:11	140:19	135:22 137:23
92:14,17 93:16	reads 13:18 16:3	116:1 117:12	reiterate 46:17	144:4,18
93:18 97:22	ready 6:8 71:12	recess 83:23	rejected 52:8	Reporters 1:24
103:11 125:4	84:4	recognizing 26:2	relate 120:5	REPORTING
128:14,16	real 19:5 39:24	recommend	related 20:4	1:23
129:18	40:6,10,18,19	23:19	124:15 138:15	reports 132:10
quick 45:25	realistic 10:21	record 4:12 5:24	relationship	repose 10:13
quickly 102:17	11:1,4,15 31:1	6:7 56:4 79:7	118:25	represent 79:19
quite 36:16	reality 43:5	91:15,16	relative 144:11	79:22,24 80:2
	realize 114:9	104:19 135:3	144:13	80:14,18 81:1
R	really 6:14 11:3	recording 84:1	released 135:11	116:13 120:16
R 1:18 2:1 134:1	21:21 27:7,15	91:15	135:17 136:25	representative
134:1 144:1	27:16,17,23	recordings	138:19	110:1
rabbit 70:11	28:1,10,14	110:16	releasing 135:6	representing
Rae 1:14 33:4,9	31:6 34:11	rectangular	relevant 96:9	115:2
34:10 36:22	36:24 50:19,20	16:11 19:19	134:7 136:6	represents 88:21
37:8 38:4,8,11	61:16 69:20	red 31:3	138:22 139:8	request 23:20
44:13 46:3	78:14 82:23	redesign 68:6,6	relied 16:1	24:11 60:23
48:13 58:9,20	108:24 122:22	70:2	remain 112:4	104:7
61:13 64:1	realm 27:18	redone 41:3	remaining 75:14	requested 7:20
65:25 66:8	realms 83:5	reduce 46:22	113:5	110:4 126:11
69:15 84:14,19	reams 53:22	refer 7:13	remedy 9:12,13	126:14 134:15
90:16 92:7,13	rear 15:10 16:12	reference	9:17,21 10:14	requesting 79:4
92:16 93:1	16:21 29:16,16	109:18	10:17	requests 38:10
127:15 129:10	29:19 30:9	references 27:23	remember 86:6	76:21 77:4
129:22 130:17	96:13	referring 137:5	106:2	88:6 89:7
130:18,23,24	reason 74:15	reflect 26:12	remind 62:1	90:14 107:5
141:23 142:2,7	83:6 85:8	49:14 57:22	reminder 69:9	135:23 137:24
Rae's 68:9 99:7	101:6 109:22	reflection 26:9	remiss 23:14	require 73:5
rail 115:4	111:13 112:7,9	refresh 8:16	Remote 1:7,10	74:2
railroad 12:12	113:13	117:4	remove 24:20	required 9:7
13:22 14:7	reasonable	refuse 61:7	75:13	18:14 85:6,10
15:11 16:22	24:11 55:3	Regan 1:21 5:14	rendering 20:13	86:15 115:13
17:7,16,22	56:16,21,22	5:15 45:22	renderings	requirement

15:15 22:23 24:3 requirements 18:4 20:11 117:23 rereview 8:5 reserve 129:22 resident 82:4 117:15 140:16 residential 9:4 12:5 21:22,24 110:13 111:11 118:4 residents 36:4,9 52:3 54:1 86:23,24 resolution 128:21,24 129:1 resoundly 52:8 respect 36:17 59:16 88:13 respectable 97:24 respectfully 104:7 respond 86:8 87:20,25 88:3 88:11,17 responded 53:23 response 87:3 responses 84:24 rest 11:19 restricted 112:4 113:7,16 118:3 restriction 119:22 restrictions 24:22 result 9:5,18 11:12 30:24 results 67:19 retail 12:7 17:23 35:20 retained 79:13 retaining 126:17 return 60:11 121:21 137:12 review 8:4 19:3	19:3 23:4,16 25:16 46:18 65:7 87:16 reviewed 7:25 11:18 13:4 87:17 reviewing 23:9 33:12 reviews 26:5 revisit 36:15 Richardson 4:8 4:13 ride 61:8 ridiculous 93:8 135:15 right 5:2 6:18 7:2 15:7 19:23 25:18 28:2,21 31:9,12,13 33:5,7,9 34:7 34:11,12,18 36:24 37:1,10 37:12,15,18,25 38:11,12,16 39:14 43:1,2 44:2,7 46:15 48:18 53:16 54:2 58:10,11 58:19 60:13 61:14 64:1,2,3 64:6 76:5 82:20,20,21 83:7,8,9,13,24 83:25 85:11 86:19 88:14 97:6 103:25 107:22 108:4 108:15,16,20 111:2 114:23 120:22 127:16 127:20 129:23 130:2,2,12 132:19 133:11 137:9,13 142:7 right-of-way 47:14 river 101:10,11 Road 13:10,24 32:9 99:6	100:11 101:7 101:11 105:4 136:22 roadway 15:12 28:5 47:15 94:21 100:18 roadways 12:14 15:15 17:13,19 18:15 20:25 47:13 100:20 Robert 2:6 134:15 roll 130:23 roof 13:2 42:5 47:4 55:20 66:12 Roofing 120:3 roofline 57:19 rooflines 21:4 32:6 39:21 48:7 57:11 69:6 112:11 roofs 32:11 room 114:2 roughly 111:3,6 RSIS 111:3 rule 28:24 53:19 80:10 rules 73:4 141:2	saw 42:3,8 43:5 43:7 103:6 saying 38:18 41:4 45:8 77:2 79:13 86:7 97:8 127:1 says 21:13 47:2 75:20 86:3 95:10 100:10 scale 19:8 20:5 21:7 109:15 110:25 114:1,9 114:16 123:4,5 schemes 69:2 School 105:7 scoping 60:23 scraps 56:1 58:2 scratch 53:16 screen 7:12 108:2,5,16 screwed 85:21 scroll 109:19 112:22 116:17 117:20 118:12 119:6 120:9 121:8,25 SECKLER 2:8 second 40:14 41:13,15 94:17 107:21,25 108:13 109:20 117:20 129:8 129:11 130:12 130:19 135:4 141:14 seconded 130:17 142:8,10 secretary's 91:13 section 13:5,17 15:5 21:9 22:16 23:18 see 4:25 14:4,5 14:12 17:3 31:21 38:7 40:18 44:5 54:19 59:23 63:16,19 66:7 67:18 71:17	73:20 75:10 78:8 82:9 85:21 97:8 99:2 100:8 102:11,12,14 102:16 103:8 106:16 107:17 108:7,8,17 109:16 110:24 111:18 114:9 116:22 120:13 120:13 123:14 125:8 134:19 137:6 seeing 38:12 46:8 106:2 seen 21:19 51:14 115:3 sell 52:23 send 143:1 sense 14:14 16:16 34:16 114:2 sensitive 76:9 sent 79:2 separate 22:24 September 109:25 serious 67:22 seriously 87:1 serve 85:24 SERVICE 1:23 set 10:19 18:12 27:7 73:9 75:1 79:8 95:4 100:20 132:15 144:9 set-aside 19:15 30:16 setback 18:5 117:24 118:9 setbacks 18:14 119:25 settlement 8:24 9:3,7,10 11:14 19:17 23:8 31:8,17 72:23 75:17 77:22 seven 138:20
S				
S 1:18 2:1,1 134:1 safely 100:20 safety 101:2 sameness 68:13 sample 116:10 Sadow 1:16 21:16 31:23 55:12,14 57:25 61:25 62:14 69:8 106:7,11 131:8,9 Sarah 69:9 satisfied 46:11 87:9 satisfy 11:2 Saturday 42:1 134:25				

shade 120:19	simply 19:11	skin 36:9	113:20,25	64:24
share 5:12 7:11	47:2 109:17	skip 18:24	114:11 123:24	standards 13:16
8:11 9:1 20:18	139:17	121:19	spaces 39:20	46:19
31:17 43:20	single-family	slide 112:22	111:1,2,4,5	start 8:15 11:21
54:25 73:1	12:4 21:23	114:12 117:17	spam 106:15,15	11:22 12:22
74:1 108:1,5	22:18 40:20	118:13 120:15	speak 27:20	37:11 53:15
108:16 119:11	118:4	123:10,12,17	41:14 54:2	54:12 64:3
shift 115:19	sink 61:9	124:1	74:5 83:6	71:19 85:1
shingle 55:20	sit 58:16	slides 3:18 123:9	85:15 88:15	107:14
short 13:11	site 1:8 4:3,4	slope 32:10	89:1,9,13,16	started 5:4
31:14	7:12 8:4,20 9:2	98:15 99:1	122:12 131:24	starting 39:11
shorter 18:21	10:9 11:6 14:5	sloped 32:1	132:2	state 73:3
32:9	15:6 19:11	98:24	speaker 38:10	104:19 105:2
Shorthand 1:24	20:17 23:5	slopes 76:9	76:21 77:4	144:4
144:4,18	29:18 30:18	small 42:7	88:6,7 89:7	stated 101:5
shortly 103:5	32:3 33:1,5	smile 84:18	90:14 92:18	109:25 136:23
show 19:18	38:12 43:21	soccer 114:1,3	107:5 135:23	139:17
66:17 113:24	44:17 47:6	soften 24:13	137:24	statement 26:1
123:11,12	53:17 62:24	soil 114:19	speaking 89:11	37:9 90:25
showing 94:8	72:12,14,18	solution 9:17	89:15 111:15	138:4
110:20	75:1,9 77:17	somebody 70:3	117:14	states 105:9
shown 19:21,24	94:3,5 99:18	127:2	speaks 49:23	stating 98:14
20:13 63:3	109:17 110:13	sorry 11:21	specific 10:9	station 39:2
shows 113:22,23	110:14,19,23	40:12 47:23	27:15 40:22	52:21,22
140:4	110:24 111:7	49:24 65:22	98:20	120:18
shy 114:3	111:20 112:14	77:5,19 88:1,9	specifically 13:9	staying 98:12
sic 134:20	113:6,9,10,20	88:9 89:9,13	79:6 107:18	steep 76:9
side 15:12 16:18	114:17,22	89:15 95:21	specifications	stenographica...
16:21 18:22	115:8 117:18	96:18 97:9	44:18	144:7
27:6 29:16,19	118:7,11,17	101:19 102:23	specificity 40:23	step 4:16 30:2
30:7 51:17	119:12,16	107:23 108:13	61:21	37:23 94:17
64:25,25 95:19	124:1 134:18	128:22 131:22	specified 16:4	110:9
95:20 96:16,25	134:21 135:18	140:1	specs 44:18	stick 122:14
97:2,8,10	135:21 137:17	sort 19:21 20:16	spell 104:20	stickler 142:19
114:4 119:18	138:8 139:9,13	21:5 22:21	spend 41:1	stipulated 57:6
sides 16:12	140:12,25	30:4 33:24	60:18	Stone 12:10 13:9
96:14 97:5	141:2	73:2 77:25	spent 51:12	13:24 32:8
120:5	sites 11:13 73:15	99:12 112:2	122:18 138:6	99:6 100:11
siding 52:23	73:17 119:16	soulless 52:9	spirit 46:24	101:7,11
53:13,14 69:1	119:19,20,24	sounds 6:16	47:10 54:16	stop 25:22 138:6
sight 42:14	situated 110:22	58:10 62:20	spoke 89:4	138:23,24
sign-offs 53:24	111:20	64:17,21	spoken 63:3	storage 115:5
signed 91:4	situation 45:12	105:18	spot 49:13	stories 13:20,23
significant	55:4	south 13:25	spur 115:5	14:19,20 15:19
18:12 48:6	six 42:6 96:4	114:6 118:7	square 52:21	15:24 16:23
signing 4:9	skew 75:3,25	119:17,20	111:8,10,14	17:11,18 18:8
similar 42:2	skewed 74:16	120:2 121:6	113:23	40:5 117:24
52:19,20 110:6	77:8,9	space 111:14,18	stand 67:5,6	straight 4:23
111:16	skews 31:15	112:5 113:4,15	standard 60:16	street 12:10,11

17:4 42:20	subtracted	121:11 134:2	80:3	101:5 103:12
46:23 94:5	113:16	138:11	telling 90:11	103:17,24
115:17 119:25	successful 82:10		ten 75:11,14,19	104:2 112:25
120:5,8	82:17		75:19 96:4	113:18 121:12
streets 17:8	sufficient	T	121:13 131:25	121:13 122:11
29:20 96:11	114:11	T 2:1 6:19 49:7	ten-minute	122:18 123:2
streetscape	suggest 23:12	104:14 134:1	81:13	124:9,15 125:7
116:9 122:7	55:1 64:20	144:1,1	ten-year 117:15	125:15 126:5
123:4	108:23	table 3:1 32:15	tend 33:24	126:16 127:9
strict 117:23	suggested 23:24	38:1	tends 30:17 75:3	128:1,8,11
strictly 122:4	suggesting 30:3	tailed 23:1	term 19:23 22:4	129:5,19,23,25
stringent 33:25	30:4	take 30:1 32:10	22:5 28:1,10	130:3 133:5,14
strive 31:9	suggestion 70:3	35:1 36:7,13	terms 9:9 11:5	136:2,6 138:6
strong 82:9,23	suggestions 61:5	37:11,22,23	22:9 28:15	138:11,24
stronger 59:12	65:3 70:21,23	44:20,21,23	34:17 45:4	139:6,8,16,23
structural 54:21	sum 24:7	49:21 60:22	46:3 64:7	139:24,24
structured	Superfund	66:14,25 70:17	72:23 73:23	140:3 144:7
99:24 112:2	139:13	83:3,14 90:17	77:21 78:1	thank 4:10,11
structures 34:24	support 84:11	113:6 119:24	88:24,24 94:15	5:3 6:23 7:7,9
stuck 42:25	100:5	125:17 131:3	129:4	25:25 26:5
122:22	supported 49:5	132:11 133:3	testified 6:21 7:5	31:19 33:2
student 73:20	suppose 80:13	140:17,18	90:8 94:4 95:8	34:9 35:11,15
study 110:20	128:12	taken 8:9 34:13	104:15 128:7	41:9 46:13
138:14	supposed 88:2	48:23 83:23	134:3	48:22 54:16
stuff 36:25	138:17	134:20 142:13	testify 5:18,20	55:10 56:8
122:18	sure 6:17 8:18	144:7	6:11 79:8,21	65:18 67:23
style 69:2	10:5 19:23	talk 38:9 40:22	80:6,9,11	78:5,24 81:3,4
subcommittee	20:2 25:22	52:13,14 76:20	124:21 126:8	83:10,11,21
57:2,18,23	34:12 39:7	77:3 88:5 89:6	126:11,15,18	89:18 91:1
58:12,25 59:9	40:8 45:14	90:13 107:4	126:20,23	92:4 93:6
61:2,16 63:6	88:16,18 89:16	120:15,21	128:4 132:24	97:14,15 98:11
63:10 83:4	99:4 100:6	122:2 135:22	132:25 133:10	102:6,8,10
subdivision	120:10 121:18	137:23	136:10 137:10	103:5,12,20
21:22 24:22	139:5 141:18	talking 21:2	137:12	104:18 105:14
subject 118:11	141:19	25:22 29:12	testifying 91:4	105:19,20,21
submit 91:4,17	surface 13:3	61:19 62:13	124:20,24	108:12,18,19
133:13	134:23	63:17 66:1,3,6	137:21 138:18	109:9,13
submitted 16:7	surrounding	75:15 77:6,11	testimonial	112:24 117:2
33:14 41:23	20:4 117:19	97:23	141:20	121:17 125:3
51:10 87:8	surroundings	tall 40:2,7,19	testimony 5:4,11	130:10 131:14
105:22 116:20	117:11 118:17	taller 32:7	5:24 6:6,25	134:5 139:1
subsequently	118:25	111:24	7:13,21,25 8:2	141:5 142:17
8:1 9:24	suspect 111:21	tanks 115:6	14:2 15:16	143:3
substantial	swear 6:15	tape 31:3	20:13 23:21	thing 26:7 36:11
18:18 22:9	104:13 133:24	taste 58:6	26:8 35:16	46:16 58:9
subsurface	switch 123:14	124:14	50:6 71:9,15	60:20 61:22
115:5	sworn 2:6,7,8,9	team 111:17	84:19 85:17	68:2 86:16
subtext 109:23	3:2,8 6:13,20	technical 84:11	90:4 91:23	141:1
109:23	7:4 104:15	108:21	92:16 98:21,21	things 44:3
		tell 46:10 64:2		

55:24 66:20	third 101:9	132:22 133:9	tracks 13:22	tweak 37:12
73:24 77:13	132:22	133:10	14:7 17:7	63:13,15
96:17 97:23	THOMAS 1:13	Tom 1:15 35:12	20:25 114:6	tweaking 39:11
110:2 138:15	thought 5:8	41:10,13,14,15	115:18 119:2	45:4 50:22
140:24	40:12 49:20	42:18 67:12	121:5,7	51:3 55:8,15
think 4:24 5:4,7	85:17 89:24	93:10	traditional 83:5	56:11
5:17 7:12 8:8	103:6	tomorrow 143:2	train 39:1 56:4	tweaks 37:21
12:16 18:25	thoughts 26:5	tonight 65:14	120:18	45:13 46:9
20:6,6,8,12	26:11,19,21	78:20 98:6,14	transcript 1:5	two 8:5 16:18
22:5,7 24:10	35:6 48:25	102:3 103:22	144:6	21:15 34:20
26:23 27:3,11	64:8 69:25	110:1,6 112:8	transferred	40:13 41:12
29:22 30:1,2	thousands 41:1	125:21 131:24	110:25	42:5 48:10
33:21,22,23	41:2	132:1,2	Transit 13:22	51:6 68:24
34:1,13,15,22	three 13:23	tonight's 48:15	14:7	69:2,19 77:6
35:8,9 36:6,8	14:20 15:24	top 99:8	trash 16:19	77:12 82:7
36:11,22 37:4	16:23 17:11	total 73:16,17,18	96:17	84:20 85:15,23
37:13,15 38:15	18:8 32:14	75:11	TRC 51:6	87:20 89:9,13
38:16,23 39:5	34:20 51:6,23	totality 76:1	treatise 27:22	89:16,20 96:14
39:8,9,25	52:10 53:6	totally 77:12	treatment 68:22	96:16,16,23
40:11 44:13	71:17 84:24	86:18	treatments	97:5 101:5
45:3,15 46:5,6	119:19,20	town 9:18 21:18	68:24	102:14 117:24
46:23 47:1,10	126:1 128:19	22:18 43:19	tree 42:9,11	119:19,20
49:2 50:11	129:20 131:25	49:10 51:13,15	tree's 42:10	120:14 122:19
52:1,25 54:23	132:11,23	82:12 83:7	trees 39:20	127:3 132:1,11
55:2,8,20	133:22 138:8	91:4 92:8	42:16 120:19	132:22 138:6,6
56:22,22 58:17	three-ring 142:3	93:11	tried 40:4	two-story 118:9
60:21 61:6,11	threshold 37:22	townhomes	trigger 86:17	119:21
61:24 62:17,18	thumb 80:10	52:20,22	troubles 82:13	type 12:2,17
63:15 65:10,13	Tifa 4:4 134:18	townhouse	truck 99:7 101:8	27:20 33:17,20
65:23 66:16,19	tighter 59:24	51:16,17	101:13,25	54:7 59:22
67:15,17 68:2	till 127:22,24	towns 77:7	trucks 100:15	60:20 69:2
68:14,16,17	time 4:22 5:3,15	87:23	100:16	111:20,22,25
69:6,16 70:7	6:7 32:4 48:18	township 1:1 2:3	true 94:11,18,19	types 48:10
70:10 71:2,6,9	49:18 51:12	8:23,25 9:8,11	144:6	59:21
75:22 77:1	60:15,18 61:9	9:24 10:5,6	trust 77:9	typical 33:19
81:19 82:22	61:11 69:4	11:10,20 12:1	try 39:10 43:1	typically 28:6,7
86:8 90:16	70:10 84:11	20:2 22:22	48:18 54:9	31:8,10
94:18,18,19	85:22,25 89:11	29:6,10 30:11	81:8,20 98:1	
95:16 96:8,12	90:25 91:22	30:17 72:16	trying 31:2	U
97:10 101:24	92:25 98:12	73:14,23 74:10	34:24 43:18,22	U 104:14
103:10 108:10	102:14 103:16	75:1,16 76:3	43:23 44:9	ugly 52:25
112:17 114:10	103:19 110:18	76:14,16,24	45:22 46:23	Uh-huh 112:23
121:20 124:25	118:24 129:2	82:4 84:14	47:20 62:25	114:14 127:12
125:11 126:20	138:25 139:18	98:8 99:10	77:7 96:22	ultimate 73:11
127:15 130:16	141:7 144:8	110:2 118:16	120:14	ultimately 28:22
142:2,19	timer 132:15	140:14,20	Tuesday 1:9	39:18
thinking 34:17	times 52:20	Township's 23:7	58:17 143:9	unauthorized
35:3 61:1	tiny 40:20	29:9	turn 51:1 63:5	80:16
thinks 84:15	today 89:15	track 17:9 32:10	turned 46:22	undermine

112:8	unrealistic 68:2	140:1,23 141:5	50:2 52:4 53:9	67:4,18 72:16
understand 5:23	unreasonable	141:21	53:10,12 54:6	74:17 76:4
43:17,17 55:23	20:21	Vice-Chairman	55:5 56:14	94:9 99:23
82:11,14 84:8	unusual 12:3	48:16 90:22	58:21 59:23	101:15 113:14
87:19 95:17	updated 103:12	Victor 1:15	60:18 63:4,5	119:16 132:3
97:9 98:13	use 14:23 47:23	38:22	64:4 65:9 67:2	ways 83:9
117:5 123:25	useful 114:8	video 7:25 86:13	67:20 71:8	we'll 53:11 54:8
124:2 125:14	uses 22:4	99:3	73:8 74:4	65:14,14 67:6
129:14	usually 22:23	videos 19:4	83:13 88:16	69:22 81:21
understanding		view 42:20,22	92:24 93:15	103:15 109:7
79:20 99:14	V	village 116:8	108:25 114:15	115:24 123:1
understood	vacant 73:24	117:16,23	118:20 119:8	we're 33:24 35:8
15:16 140:23	variance 85:6,7	120:17 121:6	127:9 132:14	35:8,20 36:15
undertake 25:12	85:7 86:15,16	123:5,23	133:13,17	37:1,14,19
undue 25:14	variances 24:5	124:25	141:17,18,19	38:2,12 43:22
unduly 11:12	30:24 36:14,24	violation 10:24	wanted 46:17	43:23 45:1,2,6
unequivocally	84:23	visible 18:22	48:24 62:21	45:12,16 48:14
52:8	variate 69:1	20:24 24:15	79:6 83:2	52:12,13 54:14
unfeasible 73:10	variation 24:14	visited 135:20	85:18,19,20	57:12 58:1,22
unfortunately	33:19 34:23	visual 20:3	86:24,25 87:1	61:1,11 63:7
27:25 99:11	58:3,4	visualize 114:5	87:12 88:18	63:17 65:13
140:20	variations 48:7	visually 64:25	89:16 114:20	67:16,19 68:20
uniform 21:18	variety 43:13	voice 142:13	115:7 116:6	70:13 71:2
uniformity	112:12	vote 65:14,16	117:7 122:5	77:6,11 82:18
21:10 55:22	vehicles 100:19	67:3,3,4 70:18	123:11 128:7	84:1,22 92:13
uniformly 73:2	vehicular 16:13	91:19 130:23	132:24	92:23 103:11
unimaginative	96:7	142:10,13	wants 38:25	125:11 131:20
52:9	verify 89:23	voted 132:24	39:1,2 55:1	131:21,22
unique 23:3,5	90:10	votes 129:15	56:13 70:3	141:23
uniqueness	Verlezza 1:15		124:1,2 125:14	we've 36:3 38:4
12:17	38:19,23 131:3	W	War 56:5,6	39:15,21 53:22
unit 33:17	version 26:14	W 134:1	warding 9:11	54:11 56:15
units 9:5 16:10	36:8	Wagner 76:13	warehouses	61:1 64:8
19:15 25:6,7	versus 60:19,19	76:15	113:21	70:23 71:6
30:14,17 31:12	vertical 12:25	wait 102:14	Warren 73:14	81:11 93:12
47:22 72:13,18	vested 117:16	108:10 133:4	73:23 74:3,9	110:4
74:18,23 75:2	viable 50:19	141:12,12,13	74:16 75:16	website 107:12
75:11 96:4,6	Vice 1:13 35:14	141:16,25,25	76:13,16,24	108:24 116:21
111:9	37:5 38:3	141:25	wasn't 30:3 63:9	116:23
University 105:6	41:24 42:24	waited 85:23	119:13	Webster 16:1
105:8	43:3,13,16	87:15	waste 139:18	28:18 95:6
unknown 101:6	44:1 55:12	waivers 24:6	wasting 61:11	week 5:3 79:4
unmute 71:23	67:12 71:1,21	want 4:6,16,23	138:24	105:23 106:2,3
78:14 93:15	83:19 88:1	18:24 21:8	watch 86:12,13	weeks 8:6 23:10
136:12	89:24 90:6	26:18,20,23	water 76:7	60:25 64:9
unmuted 92:3	91:1,11 93:19	27:19 35:15,22	way 28:8 30:24	68:4 84:20
Unnecessary	129:13,24	37:5 41:22	37:6 38:7 39:6	85:15,23 87:20
25:3	130:8 131:10	44:23 45:24	41:21 48:3	89:9,13,16,20
unravel 64:5	131:12 132:4	48:18 49:9,14	65:12 66:2	96:23 101:5

wells 138:16	worries 50:2	Z	117 3:18	21 9:5 19:15
went 28:11	worse 140:22	Z 6:19 7:3 134:1	12 14:8 15:13	30:16
88:19 106:14	worth 118:2	Z6 135:2	18:11,20	22 73:21 75:14
138:7	119:14	zone 8:21	12.3 115:1	220 110:19,21
weren't 20:15	wouldn't 30:14	117:23 118:6	12.4 115:1	23rd 134:13
Wesmont 52:21	46:7,8 60:18	118:11,24	12:27 106:5	25 82:6
52:21	99:2 138:21	zoning 2:2 8:4	122.15.3C 13:18	254,000 111:10
wholesale 37:20	write 11:25	8:23 9:8,19,24	123,490 113:22	26th 106:5,24
wider 30:21	63:14	10:3,7 11:11	12301/10100 1:7	27 1:9
willing 50:24	writing 63:18	11:15,19,20	133 3:10,19	27th 134:20,25
52:12,13 54:6	written 11:24	15:25 20:11	135 21:10	3
83:3	23:24 28:7	23:1 24:9,22	13th 7:23 91:5	3 101:9
window 44:7	31:10 32:13	28:6 31:9	99:1	30 116:15
windows 66:11	33:6 38:14	53:20 54:5	14 12:6 14:3,6	317 111:1
wish 49:21	55:11 119:10	85:8 110:4	17:2 18:11	35 13:20 14:19
128:3 132:18	wrong 73:19	112:13 113:4	62:23 94:20	15:19 17:18
wished 20:3	75:17,23 84:22	117:21,22	140 114:11	82:3
wishes 20:20	86:7 124:12	118:19 119:4,9	140-unit 111:1	4
24:10 26:24	X	zoom 1:10 84:9	15 30:16 42:15	4 3:16
67:24	x 1:3,8	84:15 109:20	72:21,23,24	40 113:4
witness 106:25	XI01201 144:18	0	73:5 77:18	440 111:2,5,9
134:15	Y	1	105:9	45 13:24 14:20
wonder 40:22	Y 6:19	1 13:19 14:6	152 22:16	15:24 16:23
wondered	yard 19:25 56:1	15:4 114:4	17 99:4	45 13:24 14:20
102:25	yeah 4:20 29:22	1/2 13:19 14:18	173,656 111:8	15:24 16:23
word 14:23	35:12 37:8	15:19 17:18	1842 105:4	17:11 48:23
47:24	38:3,21 42:24	40:5	18th 98:25	100:13
words 25:9	43:3 57:11	1/7.01 1:7	19-13P 1:5	45- 99:5
112:5 113:11	63:5 64:24	10 14:8 15:13	1990 116:7	46 111:12
115:11	67:1 71:5	18:11,19 42:10	2	5
work 20:21 21:5	76:11,25 88:25	42:12 70:24	2 13:19,23 14:18	5 3:17 99:5
22:12 24:11	90:18 93:9	143:9	15:19 17:18	115:12
25:18 26:2	95:8,23 99:20	10-foot 42:9	40:5 114:3	50 1:6 19:14
34:3 36:1,19	102:24 105:15	117:24 119:21	136:17,23	39:15 82:20
37:2,17 39:9	106:19,23	10:15 125:11	20 42:16 72:25	134:25
45:3,3 54:12	131:21	128:5	73:5 74:2	50-foot 99:5
57:1 58:24	year 64:5	10:29 141:7	98:25	118:9
59:19 60:15	years 26:15	10:31 143:8	2002 134:20	500 95:11
61:3 65:4	32:14 34:20	100 33:23 74:19	2013 136:17	5B 111:20
84:15 107:22	39:15 42:9,11	74:24 75:10,13	2014 51:14	6
120:14	44:20 52:10	75:23 77:10	2016 110:6	6 3:4 101:10
worked 33:15	82:3,8,20	104 3:9	112:16	60 99:5,5 113:5
47:6 87:23	105:9,10	108 3:16	2017 8:24	600- 52:24
111:17	116:15 117:6	10th 79:9 103:2	2018 8:19 9:22	605 136:22
working 19:11	138:21	127:20,22,24	9:25 10:4,15	642-4299 1:24
34:17 84:13	years' 87:22	11 70:25 73:16	19:5 99:1	65 99:6 100:10
works 7:14	Yep 28:17 66:8	115 3:17	2020 1:9 7:19,23	100:11
36:20 58:12	York 136:23		91:5 143:9	
World 56:5,6				

7

7 3:5 114:25
7.1 114:25
7.2 114:25
7.3 114:25
7.4 115:1
7:30 143:9
7:43 1:10
75-foot 101:8

8

8 14:8 15:13
18:12,19
8-acres 62:24
800,000 52:24
8th 109:25

9

9:10 83:17
9:20 83:17
9:36 98:10
908 1:24